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1970 EDITION

CONTAINING THE GENERAL AND PERMANENT LAWS
OF THE UNITED STATES, IN FORCE
ON JANUARY 20, 1971

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by the Committee on the Judiciary of the House of Representatives

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*This title has been enacted as law.
†This title has been eliminated by the enactment of Title 10.

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PREFACE—1970 EDITION

This eighth edition of the United States Code was prepared and published pursuant to section 202 (c) of Title 1 of the Code. It contains a consolidation and codification of all the general and permanent laws of the United States which are in force on January 20, 1971. By statutory authority this edition may be cited "U.S.C. 1970 ed." Previous editions were published in 1926, 1934, 1940, 1946, 1952, 1958, and 1964.

Inasmuch as many of the general and permanent laws which are required to be incorporated in this Code are inconsistent, redundant, and obsolete, the Committee on the Judiciary is engaged in a comprehensive project of revising and enacting the Code into law, title by title. In furtherance of this plan bills have been enacted to revise, codify and enact into law Titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44. In addition, bills relating to other titles are also being prepared for introduction. When this work is completed all the titles of the Code will be legal evidence of the general and permanent law and recourse to the numerous volumes of the Statutes at Large for this purpose will be unnecessary.

The title and chapter structure of the 1964 edition, together with Supplement V thereto, has been substantially preserved, the only changes made having been necessitated by the enactment of legislation since 1964.

In this edition numerous notes have been added captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. They should be extremely useful to the Congress, the bench and bar, and the public.

The actual work of preparing and editing the material for this edition was done by the West Publishing Co. of St. Paul, Minnesota, under the supervision of the Committee on the Judiciary of the House of Representatives. West Publishing Co. prepared the original Code which Congress enacted in 1926 and has continuously served the Committee since that time in the preparation of the authorized new editions and Supplements to the Code. Grateful acknowledgment is made to the editorial and manuscript staffs of the publishing company and of Joseph Fischer, Esq., the law revision counsel for the Committee, and his staff for their untiring efforts to make this edition as nearly perfect as possible. Acknowledgment of valuable assistance is made also to various officers of Government departments and agencies and the Government Printing Office for their helpful suggestions and criticisms.

The Committee on the Judiciary invites criticisms or suggestions with the view of improving the Code wherever possible. It is hoped that the program of enacting the entire Code, title by title, to improve its present status as merely prima facie evidence of the law, will meet with early success.

Emanuel Celler

Chairman,
Committee on the Judiciary.

Robert W. Kastenmeier

Chairman, Subcommittee No. 3,
Committee on the Judiciary.

WASHINGTON, D.C., *January 2, 1971.*

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44. Department of Housing and Urban Development.
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Chapter 1.—THE PUBLIC HEALTH SERVICE

GENERALLY

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1 to 1j. Repealed.
2. Jurisdiction of Federal Security Agency over service.
3, 4. Repealed.
5. Appointment to higher grade of officers of Public Health Service detailed with Isthmian Canal Commission.
6 to 15a. Repealed.

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16. Details for work with Bureau of Mines.
17 to 25e. Repealed.
26. Isolation of civilians for protection of military, air and naval forces.
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61. Travel expenses for travel on Government-owned vessels.
62. Repealed.
63. Computation of length of service of officers of Public Health Service.
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64a to 64c. Omitted.
65 to 70a. Repealed.

GENERALLY

§§ 1 to 1j. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 1, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided that the Public Health and Marine Hospital Service should be known as the Public Health Service, is now covered by section 202 of this title.

Section 1a, act Nov. 11, 1943, ch. 298, § 1, 57 Stat. 587, which provided for the organization and function of the Public Health Service, is now covered by section 203 of this title.

Section 1b, act Nov. 11, 1943, ch. 298, § 2, 57 Stat. 587, which provided for the appointment of Assistant Surgeons General, their grade, pay, and allowances, is now covered by sections 206, 207, and 210 of this title.

Section 1c, act Nov. 11, 1943, ch. 298, § 3, 57 Stat. 587, which provided for the chiefs of divisions, their grade, pay and allowances, and the creation of a Dental Division and a Sanitary Engineering Division, is now covered by sections 206, 207, and 210 of this title.

Section 1d, act Nov. 11, 1943, ch. 298, § 4, 57 Stat. 587, which provided for temporary promotions in regular corps in time of war, is now covered by section 211 of this title.

Section 1e, act Nov. 11, 1943, ch. 298, § 5, 58 Stat. 588, which provided for the review of record of officers above the grade of assistant surgeon and their separation from service, is now covered by section 211 of this title.

Section 1f, act Nov. 11, 1943, ch. 298, § 6, 58 Stat. 588, which provided for an acting Surgeon General during absence of Surgeon General and Assistant to the Surgeon General, is now covered by section 206 of this title.

Section 1g, act Nov. 11, 1943, ch. 298, § 7, 57 Stat. 588, which provided for death and disability benefits of commissioned officers during war and for the transfer of Service to the Military forces, is now covered by sections 213 and 217 of this title.

Section 1h, act Nov. 11, 1943, ch. 298, § 8, 57 Stat. 589, which provided for commissioned officers' benefits as civil officers and employees of United States and election of benefits, is now covered by chapter 15 of Title 5, Government Organization and Employees.

Section 1i, act Nov. 11, 1943, ch. 298, § 9, 57 Stat. 589, which provided for beneficiaries' benefits where commissioned officer lost his life on active duty between Dec. 7, 1941, and Nov. 11, 1943.

Section 1j, act Nov. 11, 1943, ch. 298, § 11, 57 Stat. 589, which provided for the transfer of appropriations to continue transferred functions is now covered by note under section 201 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88–581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 2. Jurisdiction of Federal Security Agency over service.

CODIFICATION

Section, acts Feb. 3, 1905, ch. 297, § 1, 33 Stat. 650; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; 1939 Reorg. Plan No. I, eff. July 1, 1939, § 201, 4 F. R. 2728, 53 Stat. 1424, is now covered by section 202 of this title.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714, renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88–581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91–572, § 6(b), 84 Stat. 1506. Act July 1, 1944, retained the name Public Health Service.

§§ 3, 4. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 3, act July 1, 1902, ch. 1370, § 9, 32 Stat. 714; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for rules and regulations of service by the President, is now covered by section 216 of this title.

Section 4, R. S. § 4802; acts July 1, 1902, ch. 1370, § 9, 32 Stat. 714; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for an annual report by the Surgeon General to the Federal Security Administrator, is now covered by section 229 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, and 913 by Pub. L. 88–581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 5. Appointment to higher grade of officers of Public Health Service detailed with Isthmian Canal Commission.

CODIFICATION

Section, act Mar. 4, 1915, ch 167, § 4, 38 Stat. 1191, provided for appointment to higher grade of officers of Public Health Service detailed with Isthmian Canal Commission.

§§ 6 to 15a. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 6, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the care of sick and disabled seamen, is now covered by section 249 of this title.

Section 6a, act Mar. 31, 1936, ch. 161, 49 Stat. 1185, which provided for the care of seamen on Government vessels not in the Military or Naval Establishments and of cadets on State school ships, is now covered by section 249 of this title.

Section 7, act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for investigations by Service into diseases, etc., and publications relating thereto, is now covered by section 241 of this title.

Section 8, acts July 1, 1902, ch. 1370, § 4, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the use of the Service in time of war, is now covered by section 217 of this title.

Section 8a, act Apr. 9, 1930, ch. 125, § 2 (a), 46 Stat. 150, which provided for the extension of the facilities of the Service to health officials and scientists, is now covered by section 241 of this title.

Section 9, act Oct. 1, 1918, ch. 179, § 2, 40 Stat. 1008, which provided for the suppression of Spanish influenza and other communicable diseases, is now covered by section 264 of this title.

Section 9a, act Apr. 9, 1930, ch. 125, § 3, 46 Stat. 150, which provided that the administrative office and bureau divisions in the District of Columbia be a part of the departmental organization and the scientific offices and research laboratories as part of the field services, is now covered by section 203 of this title.

Section 10, acts Mar. 3, 1875, ch. 130, § 1, 18 Stat. 377; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the appointment of the Surgeon General, is now covered by section 205 of this title.

Section 11, R. S. § 4802; acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the supervisory powers of the Surgeon General, is now covered by section 203 of this title.

Section 11a, act Apr. 9, 1930, ch. 125, § 10 (b), 46 Stat. 152, which provided for the pay and allowances of the Surgeon General and for reversion in grade on expiration of term, is now covered by sections 205 and 207 of this title.

Section 11b, act Aug. 9, 1939, ch. 606, 53 Stat. 1266, which provided for the rank and pay of the Assistant to the Surgeon General, is now covered by sections 206 and 207 of this title.

Section 12, acts Jan. 4, 1889, ch. 19, § 1, 25 Stat. 639; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for appointment of medical officers after examination, is now covered by section 209 of this title.

Section 13, act Jan. 4, 1889, ch. 19, § 2, 25 Stat. 639, which provided for original appointments as assistant surgeons and promotion of passed assistant surgeon, is now covered by sections 209 and 211 of this title.

Section 14, act Aug. 14, 1912, ch. 288, § 2, 37 Stat. 309, provided for help as provided by Congress, is now covered by section 209 of this title.

Section 15, acts Mar. 3, 1891, ch. 541, § 1, 26 Stat. 923; July 31, 1894, ch. 174, § 1, 28 Stat. 179; July 1, 1902, ch. 1370, § 1, 32 Stat. 712, which provided for details for duty in the bureau, is now covered by section 215 of this title.

Section 15a, acts Mar. 2, 1895, ch. 177, § 1, 28 Stat. 780; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the detail of two hospital attendants for duty in the laboratory, is now provided for in section 215 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4 (b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b) Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 16. Details for work with Bureau of Mines.

CODIFICATION

Section, which was from the Interior Department Appropriation Act, 1950, act Oct. 12, 1949, ch. 680, title I, 63 Stat. 791, was not repeated in the General Appropriation Act, 1951, act Sept. 6, 1950, ch. 896, 64 Stat. 595. It related to detail of Public Health medical officers to the Bureau of Mines. Provisions for details to executive departments are now covered by section 215 of this title.

REPEALS

Act July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47; July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4 (b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3 (b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506, repealed portions of Appropriations Acts June 12, 1917, ch. 27, § 1, 40 Stat. 146, May 24, 1922, ch. 199, 42 Stat. 588; Jan. 24, 1923, ch. 42, 42 Stat. 1210; June 5, 1924, ch. 264, 43 Stat. 422; Mar. 3, 1925, ch. 462, 43 Stat. 1175, which contained similar provisions to those of this section, but later appropriation acts containing such provisions were not repealed.

SIMILAR PROVISIONS

Similar provisions were contained in the following acts:

1948—June 29, 1948, ch. 754, § 1, 62 Stat. 1139.
1947—July 25, 1947, ch. 337, § 1, 61 Stat. 483.
1946—July 1, 1946, ch. 529, § 1, 60 Stat. 375.
1945—July 3, 1945, ch. 262, § 1, 59 Stat. 351.
1944—June 28, 1944, ch. 298, § 1, 58 Stat. 499.
1943—July 12, 1943, ch. 219, § 1, 57 Stat. 485.
1942—July 2, 1942, ch. 473, § 1, 56 Stat. 548.
1941—June 28, 1941, ch. 259, § 1, 55 Stat. 345.
1940—June 18, 1940, ch. 395, § 1, 54 Stat. 444.
1939—May 10, 1939, ch. 119, § 1, 53 Stat. 725.
1938—May 9, 1938, ch. 187, § 1, 52 Stat. 330.
1937—Aug. 9, 1937, ch. 570, § 1, 50 Stat. 602.
1936—June 22, 1936, ch. 691, § 1, 49 Stat. 1791.
1935—May 9, 1935, ch. 101, § 1, 49 Stat. 205.
1934—Apr. 7, 1934, ch. 104, title III, 48 Stat. 564.
1933—Mar. 1, 1933, ch. 144, title III, 47 Stat. 1406.
1932—July 1, 1932, ch. 361, title III, 47 Stat. 516.
1931—Feb. 23, 1931, ch. 280, title III, 46 Stat. 1349.
1930—Apr. 18, 1930, ch. 184, title III, 46 Stat. 212.
1929—Jan. 25, 1929, ch. 102, title III, 45 Stat. 1133.
1928—Feb. 15, 1928, ch. 57, title III, 45 Stat. 103.
1927—Feb. 24, 1927, ch. 189, title III, 44 Stat. 1219.
1926—Apr. 29, 1926, ch. 195 title III, 44 Stat. 368.
1923—Jan. 24, 1923, ch. 42, 42 Stat. 1210.
1921—Mar. 4, 1921, ch. 161 § 1, 41 Stat. 1401.
1920—June 5, 1920, ch. 235, § 1, 41 Stat. 911.
1919—July 19, 1919, ch. 24, § 1, 41 Stat. 199.
1918—July 1, 1918, ch. 113, § 1, 40 Stat. 671.

§§ 17 to 25e. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 17, act Oct. 1, 1918, ch. 178, 40 Stat. 992, which provided for a detail for duty with the Department of Agriculture, is now covered by section 215 of this title.

Section 17a, act Apr. 9, 1930, ch. 125, § 1, 46 Stat. 150, which provided for a detail for duty with executive and independent departments carrying on public health activities, is now covered by section 215 of this title.

Section 17b, act Apr. 9, 1930, ch. 125, § 2 (a), 46 Stat. 150, which provided for a detail for duty with educational and research institutions, is now covered by section 215 of this title.

Section 17c, act Apr. 26, 1939, ch. 92, § 1, 53 Stat. 620, which provided for a detail for duty on vessels of Coast and Geodetic Survey, is now covered by section 215 of this title.

Section 18, act Oct. 27, 1918, ch. 196, 40 Stat. 1017, which provided for a Reserve of the Public Health Service, is now covered by sections 204, 207, 209, and 210 of this title.

Section 18a, act Apr. 9, 1930, ch. 125, § 6, 46 Stat. 151, which provided for the assignment of Reserve officers to active duty and for such service counting for promotion credits, is now covered by section 204 of this title.

Section 18b, act Mar. 18, 1943, ch. 17, title I, § 1, 57 Stat. 24, which provided for the distribution of Reserve officers among the several grades, is now covered by section 209 of this title.

Section 19, acts Feb. 19, 1897, ch. 265, § 1, 29 Stat. 554; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for leaves of absence for medical officers, is now covered by section 210-1 of this title.

Section 20, act July 9, 1917, ch. 37, 40 Stat. 242, which provided for pensions to officers detailed for service with Coast Guard, Army, or Navy, is now covered by section 213 of this title.

Section 21, acts July 1, 1902, ch. 1370, § 5, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; Apr. 9, 1930, ch. 125, § 13, 46 Stat. 152; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for the establishment of the National Advisory Health Council as an advisory board for the National Institute of Health, is now covered by section 218 of this title.

Section 21a, act Aug. 10, 1939, ch. 636, 53 Stat. 1338, which provided for the compensation of the National Advisory Health Council, is now covered by section 210 of this title.

Section 22, acts July 1, 1902, ch. 1370, § 6, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for the appointment of chiefs of divisions and the director of the institute, and their pay and allowances, is now covered by sections 206 and 210 of this title.

Section 23, act Mar. 4, 1913, ch. 149, § 1, 37 Stat. 915, which provided for the pay of the director of the Hygienic Laboratory which is now known as the National Institute of Health, is covered by section 210 of this title.

Section 23a, act May 26, 1930, ch. 320, § 1, 46 Stat. 379, provided that the Hygienic Laboratory should be succeeded by the National Institute of Health and that all laws, authorizations, and appropriations of the Hygienic Laboratory should become applicable to its successor.

Section 23b, act May 26, 1930, ch. 320, § 2, 46 Stat. 379, which provided for the acceptance of gifts by the Federal Security Administrator, is now covered by section 219 of this title.

Section 23c, act May 26, 1930, ch. 320, § 3, 46 Stat. 380, which provided for detailing to duty of scientists receiving fellowships, is now covered by sections 209 and 241 of this title.

Section 23d, act May 26, 1930, ch. 320, § 4, 46 Stat. 380, which provided for appointment and compensation of personnel of the National Institute of Health, is now covered by section 209 of this title.

Section 23e, act May 26, 1930, ch. 320, § 5, 46 Stat. 380, which provided that the facilities of the National Institute of Health be available to States, counties, and municipalities, is now covered by section 241 of this title.

Section 23f, act May 26, 1930, ch. 320, § 6, 46 Stat. 380, which provided for the rank, pay, and allowances of the Director of the Institute, is now covered by sections 206, 207, and 210 of this title.

Section 23g, acts Apr. 9, 1930, ch. 125, § 2 (b), 46 Stat. 150; May 26, 1930, ch. 320, § 1, 46 Stat. 379, which provided for additional divisions in the Institute as authorized by the Administrator, is now covered by section 203 of this title.

Section 24, act July 9, 1918, ch. 143, ch. XV, § 3, 40 Stat. 886, provided for the establishment of a Division of Venereal Diseases.

Section 25, act July 9, 1918, ch. 143, ch. XV, § 4, 40 Stat. 886, provided for the duties of the Division of Venereal Diseases.

Section 25a, act July 9, 1918, ch. 143, ch. XV, § 4a, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for appropriations to assist political subdivisions in venereal disease work, is now covered by sections 241 and 246 of this title.

Section 25b, July 9, 1918, ch. 143 ch. XV, § 4b, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for allotments to political subdivisions for venereal disease work, is now covered by section 246 of this title.

Section 25c act July 9, 1918, ch. 143, ch. XV, § 4c, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for payments from allotments to political subdivisions, is now covered by section 246 of this title.

Section 25d, act July 9, 1918, ch. 143, ch. XV § 4d, as added May 24, 1938, ch. 267, 52 Stat. 439, which provided for rules and regulations governing the Division of Venereal Diseases, is now covered by section 216 of this title.

Section 25e, act July 9, 1918, ch. 143, ch. XV, § 4e, as added May 24, 1938, ch. 267, 52 Stat. 439, provided for the construction of former sections 25a to 25e of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88–581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 26. Isolation of civilians for protection of military, air and naval forces.

The Secretary of the Army, the Secretary of the Air Force and the Secretary of the Navy are authorized and directed to adopt measures for the purpose of assisting the various States in caring for civilian persons whose detention, isolation, quarantine, or commitment to institutions may be found necessary for the protection of the military, air and naval forces of the United States against venereal diseases. (July 9, 1918, ch. 143, ch. XV, § 2, 40 Stat. 886.)

CODIFICATION

The Secretary of the Air Force was inserted under the authority of section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Order No. 40 [App. A (73)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

SECRETARY OF THE AIR FORCE

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force from the Secretary of the Army, see Secretary of Defense Transfer Order No. 40 [App. A (73)], July 22, 1949.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 27 of this title.

§ 27. Definitions.

The terms "State" and "States", as used in sections 25 and 26 of this title, shall be held to include the District of Columbia. (July 9, 1918, ch. 143, ch. XV, § 8, 40 Stat. 887.)

REFERENCES IN TEXT

Section 25, referred to in text was repealed by act July 1, 1944, ch. 373 title XI, § 1113, 58 Stat. 714, as renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47; July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88–581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89–239, § 3(b), 79 Stat. 931; Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§§ 28 to 43. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 28, act July 1, 1902, ch. 1370, § 3, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309; July 9, 1918, ch. 143, subch. XV, § 3, 40 Stat. 886, which provided divisions under Assistant Surgeons General and the rank, pay, and allowances of said Assistants, is now covered by sections 206, 207, and 210 of this title.

Section 28a, act Apr. 9, 1930, ch. 125, § 10 (c), 46 Stat. 152, which provided for a chief of the narcotics division, is now covered by section 206 of this title.

Section 29, acts July 1, 1902, ch. 1370, § 7, 32 Stat. 713; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for conferences with State and Territorial boards of health, is now covered by section 244 of this title.

Section 30, acts July 1, 1902, ch. 1370, § 8, 32 Stat. 714; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the compilation of mortality, morbidity, and vital statistics, is now covered by section 245 of this title.

Section 31, act June 5, 1920, ch. 235, § 1, 41 Stat. 883, which provided that officers of the Service could make allotments of their pay, is now covered by section 704 of Title 37, Pay and Allowances of the Uniformed Services.

Section 32, act Mar. 6, 1920, ch. 94, § 1, 41 Stat. 507, which provided for the purchase of quartermaster supplies by officers of the Service, is now covered by section 210 of this title.

Section 33, act Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1378, which provided for limitations on the expenditure of appropriations, is now covered by section 227 of this title.

Section 33a, act May 14, 1935, ch. 110, 49 Stat. 229, which provided for the covering into the Treasury moneys collected for treatment of foreign seamen and other pay patients, is now covered by section 221 of this title.

Section 34, acts July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 2, 37 Stat. 309; Apr. 9, 1930, ch. 125, § 10 (a), 46 Stat. 152, which provided for titles for officers of the Service, is now covered by section 207 of this title.

Section 35, act Apr. 9, 1930, ch. 125, § 10 (a), 46 Stat. 152, which provided titles for officers other than medical officers of the Service, is now covered by section 207 of this title.

Section 36, act Apr. 9, 1930, ch. 125, § 10 (a), 46 Stat. 152, which provided titles for officers in the grade of Assistant Surgeons General, is now covered by section 206 of this title.

Section 37, acts Apr. 9, 1930, ch. 125, § 9, 46 Stat. 151; act Nov. 11, 1943, ch. 298, § 7, 57 Stat. 588, which provided for promotions, pay and allowances, and severance from Service of commissioned officers is now covered by sections 209 et seq. of this title.

Section 38, act Apr. 9, 1930, ch. 125, § 4, 46 Stat. 150, which provided for the appointment and grades of medical, dental, sanitary engineer, and pharmacist officers, is now covered by section 209 of this title.

Section 39, Apr. 9, 1930, ch. 125, § 5, 46 Stat. 150, which provided for the number, pay and allowances, and service credits for pay purposes of medical, dental, sanitary engineer, and pharmacist officers, is now covered by sections 209 et seq. of this title.

Section 40, act Apr. 9, 1930, ch. 125, § 11, 46 Stat. 152, which provided for the appointment and qualifications of employees other than commissioned officers, is now covered by section 209 of this title.

Section 41, act Apr. 9, 1930, ch. 125, § 7, 46 Stat. 151, which provided for the appointment of persons other than commissioned officers for scientific research, is now covered by section 209 of this title.

Section 42, act Apr. 9, 1930, ch. 125, § 12, 46 Stat. 152, which provided for medical and hospital services to officers disabled by sickness or injury, is now covered by sections 213 and 248 of this title.

Section 43, act Mar. 3, 1919, ch. 98, § 3, 40 Stat. 1303, related to the transfer of property and equipment to the Service. Act Mar. 4, 1921, ch. 156, 41 Stat. 1365, formerly cited to section 43, was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88-851, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§§ 44, 45. Repealed. Oct. 31, 1951, ch. 654, § 1 (45), 65 Stat. 703.

Sections, act Mar. 15, 1920, ch. 100, §§ 1, 4, 41 Stat. 530, 531, which related to transfer of surplus motor-propelled vehicles in the War Department (now Department of the Army) to the Federal Security Agency (now Department of Health, Education, and Welfare) for the use of the Public Health Service, are now covered by sections 483 and 484 of Title 40, Public Buildings, Property, and Works.

§ 46. Relocation of private physicians and dentists; relocation allowance; travel and transportation costs.

CODIFICATION

Section, which was from the First Supplemental National Defense Appropriation Act, 1944, act Dec. 23, 1943, ch. 380, title I, § 101, 57 Stat. 617, was not repeated in subsequent appropriation acts.

PAY

CROSS REFERENCES

Pay and allowances generally, see Title 37, Pay and Allowances of the Uniformed Services.

§ 61. Travel expenses for travel on Government-owned vessels.

CODIFICATION

Section, acts Jan. 22, 1925, ch. 87, title I, 43 Stat. 774; Mar. 2, 1926, ch. 43, title I, § 1, 44 Stat. 147, has been omitted. See section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

§ 62. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, act May 18, 1920, ch. 190, § 11, 41 Stat. 604, related to longevity pay and credit for service in other branches. Similar provisions are now contained in section 517 of Title 10, Armed Forces, and sections 201, 203—205 of Title 37, Pay and Allowances of the Uniformed Services.

§ 63. Computation of length of service of officers of Public Health Service.

CODIFICATION

Section, acts May 28, 1924, ch. 203, 43 Stat. 194; Feb. 11, 1925, ch. 209, 43 Stat. 872; May 21, 1926, ch. 355, 44 Stat. 604, which related to time spent at the Military and Naval Academies, expired with the appropriation acts of which it was a part.

§ 64. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, act May 18, 1920, ch. 190, § 12, 41 Stat. 604, related to transportation of dependents. See sections 404—407, and 409—411 of Title 37, Pay and Allowances of the Uniformed Services.

§§ 64a to 64c. Omitted.

CODIFICATION

Section 64a, act Feb. 21, 1929, ch. 288, 45 Stat. 1254, defined child and children as used in former section 64 of this title, is now covered by section 401 of Title 37, Pay and Allowances of the Uniformed Services.

Section 64b, act June 24, 1935, ch. 291, § 3, 49 Stat. 421, which defined permanent change in station as used in former section 64 of this title. See section 411 of Title 37, Pay and Allowances of the Uniformed Services.

Provisions of section 64c, which related to use of government automobiles to transport school children at isolated stations, were enacted as permanent legislation by the 1948 amendment to section 227 of this title. Former section 64c was based upon the following appropriation acts:

1948—June 14, 1948, ch. 465, title II, § 201, 62 Stat. 400.
1947—July 8, 1947, ch. 210, title II, § 201, 61 Stat. 267.
1946—July 26, 1946, ch. 672, title II, § 201, 60 Stat. 690.
1945—July 3, 1945, ch. 263, title II, § 201, 59 Stat. 368.
1944—June 28, 1944, ch. 302, title II, § 201, 58 Stat. 559.
1943—July 12, 1943, ch. 221, title II, § 201, 57 Stat. 507.
1942—July 2, 1942, ch. 475, title II, § 201, 56 Stat. 582.
1941—July 1, 1941, ch. 269, title II, § 201, 55 Stat. 483.
1940—June 26, 1940, ch. 428, title II, § 201, 54 Stat. 587.

§ 65. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

Section, acts Mar. 2, 1923, ch. 178, title I, 42 Stat. 1385; Aug. 4, 1949, ch. 393, § 11, 63 Stat. 559, prohibited the issuance of heat or light in kind to any person in the Public Health Service while such person is receiving an allowance for rental of quarters.

§§ 66 to 69. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 66, act Apr. 9, 1930, ch. 125, § 8, 46 Stat. 151, which provided for disability pay for commissioned officers, is now covered by section 212 of this title.

Section 67, act May 14, 1937, ch. 180, title I, § 1, 50 Stat. 148, which provided for compensation of field employees rendering part-time and call services, is now covered by section 210 of this title.

Section 68, act June 26, 1940, ch. 428, title II, 54 Stat. 584, as repeated by act July 1, 1941, ch. 269, title II, 55 Stat. 480, which provided transportation funds for shipment of deceased officers, is now covered by section 224 of this title.

Section 69, acts May 27, 1908, ch. 200, § 1, 35 Stat. 373; May 13, 1938, ch. 213, 52 Stat. 352; Oct. 28, 1943, ch. 289, 57 Stat. 583, provided for the settlement of accounts of deceased officers and men. See section 2771 of Title 10, Armed Forces.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4 (b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 70. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

Section, act June 30, 1949, ch. 286, title I, 63 Stat. 365, provided for a per diem allowance of officers detailed to the Coast Guard.

Acts June 26, 1943, ch. 147, title I, 57 Stat. 210; Mar. 31, 1943, ch. 30, § 1, 57 Stat. 55; June 22, 1944, ch. 269, title I, 58 Stat. 315; May 29, 1945, ch. 130, 59 Stat. 216; July 12, 1946, ch. 569, § 1, 60 Stat. 530; July 1, 1947, ch. 186, title I, 61 Stat. 225; June 19, 1948, ch. 558, title I, 62 Stat. 562, which contained provisions similar to former section 70 of this title, were repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 651—654.

§ 70a. Repealed. Dec. 28, 1945, ch. 597, § 4, 59 Stat. 662.

Section, act Oct. 27, 1943, ch. 287, § 6, 57 Stat. 583, provided for reimbursement for property lost or destroyed in service while serving with the Navy.

Chapter 1A.—THE PUBLIC HEALTH SERVICE; SUPPLEMENTAL PROVISIONS

§§ 71 to 71r. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Former sections 71—71q, were set out as sections 17a, 17b, 8a, 23g, 9a, 38, 39, 18a, 41, 66, 37, 35, 36, 34, 11a, 28a, 40, and 42 and were based on act Apr. 9, 1930, ch. 125, 46 Stat. 150. Former section 71r, based on acts Apr. 9, 1930, ch. 125, 46 Stat. 152; May 26, 1930, ch. 320, 46 Stat. 379, was set out as former section 21 of this title. All of the foregoing sections were repealed by act July 1, 1944. See notes under said sections of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4 (b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

Chapter 2.—SANITATION AND QUARANTINE

Sec.
81 to 87. Repealed.
88. Discharge of cargo of vessel in quarantine.
89. Quarantine warehouses; erection.
90. Same; deposit of goods.
91. Extending time for entry of vessels subject to quarantine.
92 to 96. Repealed.
97. State health laws observed by United States officers.
98. Vessels for quarantine officers.
99 to 111. Repealed.
112. Removal of revenue officers from port during epidemic.
113, 114. Repealed.

§§ 81 to 87. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 81, act Feb. 15, 1893, ch. 114, § 1, 27 Stat. 449, which provided penalties for the entry of vessels in violation of quarantine laws, is now covered by section 271 of this title.

Section 82, acts Feb. 15, 1893, ch. 114, § 2, 27 Stat. 450; Aug. 18, 1894, ch. 300, 28 Stat. 372; Feb. 27, 1921, ch. 80, 41 Stat. 1149; Feb. 7, 1925, ch. 146, 43 Stat. 809; July 10, 1940, ch. 566, 54 Stat. 747, which provided for bills of health, is now covered by section 269 of this title.

Section 82a, acts Feb. 15, 1893, ch. 114, § 13, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1491, which provided for duplicate bills of health, is now covered by section 269 of this title.

Section 83, act Feb. 15, 1893, ch. 114, § 11, as added Mar. 3, 1901, ch. 836, 31 Stat. 1087, provided that vessels from foreign ports without bill of health not entering the United States were subject to quarantine regulations.

Section 84, act Feb. 15, 1893, ch. 114, § 6, 27 Stat. 452, provided for the disposition of infected vessels.

Section 85, act June 19, 1906, ch. 3433, § 4, 34 Stat. 300, which provided penalties for infractions of quarantine, is now covered by section 271 of this title.

Section 86, act Apr. 29, 1878, ch. 66 § 1, 20 Stat. 37, prohibited entry of vessels and vehicles contrary to state quarantine laws. Provisions concerning quarantine are now contained in sections 264—272 of this title. Compliance with state laws, see section 97 of this title.

Section 87, act Apr. 17, 1917, ch. 3, § 1, 40 Stat. 6, provided for the payment of cost of fumigation and disinfection of foreign vessels.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4 (b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 88. Discharge of cargo of vessel in quarantine.

Whenever, by the health laws of any State, or by the regulations made pursuant thereto, any vessel arriving within a collection district of such State is prohibited from coming to the port of entry by law established for such district, and such health laws require or permit the cargo of the vessel to be unladen at some other place within or near to such district, the collector, after due report to him of the whole of such cargo, may grant his warrant or permit for the unlading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws permit, and upon the conditions and restrictions which shall be directed by the Secretary of Health, Education, and Welfare, or which such collector may, for the time, deem expedient for the security of the public revenue. (R. S. § 4793; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

DERIVATION

Act Feb. 23, 1799, ch. 12, § 2, 1 Stat. 619.

CODIFICATION

Words "or delivery" which were included in this section as originally enacted, were omitted as ports of delivery were abolished by 1913 Reorg. Plan, eff. Mar. 3, 1913, and set out as a note under section 1 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1 set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Public Health Service and its functions and personnel were transferred to the Federal Security Agency, by 1939 Reorg. Plan No. I, see Transfer of functions note under section 88 of this title.

CROSS REFERENCES

Quarantine stations, see section 267 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 91, 97 of this title.

§ 89. Quarantine warehouses; erection.

There shall be purchased or erected, under the orders of the President, suitable warehouses, with wharves and inclosures, where merchandise may be unladen and deposited, from any vessel which shall be subject to a quarantine, or other restraint, pursuant to the health laws of any State, at such convenient places therein as the safety of the public revenue and the observance of such health laws may require. (R. S. § 4794.)

DERIVATION

Act Feb. 23, 1799, ch. 12, § 3, 1 Stat. 620.

CROSS REFERENCES

Establishment and management of quarantine stations, grounds and anchorages, see section 267 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 97 of this title.

§ 90. Same; deposit of goods.

Whenever the cargo of a vessel is unladen at some other place than the port of entry under sections 88 and 89 of this title, all the articles of such cargo shall be deposited, at the risk of the parties concerned therein, in such public or other warehouses or inclosures as the collector shall designate, there to remain under the joint custody of such collector and of the owner, or master, or other person having charge of such vessel, until the same are entirely unladen or discharged, and until the articles so deposited may be safely removed without contravening such health laws. And when such removal is allowed, the collector having charge of such articles may grant permits to the respective owners or consignees, their factors or agents, to receive all merchandise which has been entered, and the duties accruing upon which have been paid, upon the payment by them of a reasonable rate of storage; which shall be fixed by the Secretary of Health, Education, and Welfare for all public warehouses and inclosures. (R. S. § 4795; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

DERIVATION

Act Feb. 23, 1799, ch. 12, § 2, 1 Stat. 619.

CODIFICATION

Omission of words "or delivery", see note under section 88 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Public Health Service and its functions and personnel transferred to Federal Security Agency by 1939 Reorg. Plan No. I, see note under section 88 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 91, 97 of this title.

§ 91. Extending time for entry of vessels subject to quarantine.

The Secretary of Health, Education, and Welfare is authorized, whenever a conformity to such quarantines and health laws requires it, and in respect to vessels subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulations applicable to such reports or entries. No part of the cargo of any vessel shall, however, in any case, be taken out or unladen therefrom, otherwise than is allowed by law, or according to the regulations established by sections 88 and 90 of this title. (R. S. § 4796; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

DERIVATION

Act Feb. 23, 1799, ch. 12, § 1, 1 Stat. 619.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Public Health Service and its functions and personnel transferred to Federal Security Agency by 1939 Reorg. Plan No. I, see note under section 88 of this title.

§§ 92 to 96. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 92, acts Feb. 15, 1893, ch. 114, § 3, 27 Stat. 450; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the enforcement of quarantine regulations, is now covered by sections 264—267 of this title.

Section 92a, acts Apr. 29, 1878, ch. 66, § 5, 20 Stat. 38; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, § 1, 37 Stat. 309, which provided for a national quarantine system, is now covered by sections 264—267 of this title.

Section 93, acts Feb. 15, 1893, ch. 114, § 4, 27 Stat. 451; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the duties of the Surgeon General relating to quarantine, is now covered by sections 264—270 of this title.

Section 94, act Feb. 15, 1893, ch. 114, § 5, 27 Stat. 451, which provided for regulations to secure sanitary conditions of vessels, is now covered by section 269 of this title.

Section 94a, act Feb. 15, 1893, ch. 114, § 14, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided for hours of inspection at quarantine stations, is now covered by section 267 of this title.

Section 94b, act Feb. 15, 1893, ch. 114, § 16, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided for the schedule of charges and payment of them, is now covered by section 269 of this title.

Section 94c, act Feb. 15, 1893, ch. 114, § 15, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided for the procurement of health certificates, is now covered by section 269 of this title.

Section 94d, act Feb. 15, 1893, ch. 114, § 17, as added Mar. 3, 1931, ch. 409, § 1, 46 Stat. 1492, which provided medical and hospital benefits to officers and employees of the national quarantine service, is now covered by section 253 of this title.

Section 94e, act Mar. 3, 1931, ch. 409, § 3, 46 Stat. 1492, which provided for extended quarantine service, is now covered by section 267 of this title.

Section 95, acts Mar. 27, 1890, ch. 51, § 1, 26 Stat. 31; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which related to regulations to prevent spread of communicable diseases, is now covered by section 264 of this title.

Section 96, act June 19, 1906, ch. 3433, § 6, 34 Stat. 301, provided that jurisdiction over established station acquired by the United States be ceded before payment of compensation.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4 (b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 97. State health laws observed by United States officers.

The quarantines and other restraints established by the health laws of any State, respecting any vessels arriving in, or bound to, any port or district thereof, shall be duly observed by the officers of the customs revenue of the United States, by the masters and crews of the several Coast Guard cutters, and by the military officers commanding in any fort or station upon the seacoast; and all such officers of the United States shall faithfully aid in the execution of such quarantines and health laws, according to their respective powers and within their respective precincts, and as they shall be directed, from time to time, by the Secretary of Health, Education, and Welfare. But nothing in this section and sections 88 to 91 and 112 of this title shall enable any State to collect a duty of tonnage or impost without the consent of Congress. (R. S. § 4792; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 495, 561; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

DERIVATION

Act Feb. 23, 1799, ch. 12, § 1, 1 Stat. 619.

AMENDMENTS

1949—Act Aug. 4, 1949, reestablished the Coast Guard and repealed act Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800, former authority for substitution of "Coast Guard cutters" for "revenue-cutters".

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Aug. 4, 1949, effective the first day of the third month after the month of approval, August 1949, see note set out preceding chapter 1 of Title 14, Coast Guard.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. Such Plan provided that, notwithstanding such transfer of functions, the Coast Guard shall continue to operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in sections 1 and 3 of Title 14, Coast Guard.

The Coast Guard was transferred to the Department of Transportation and all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other offices and officers of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655(b) of Title 49, Transportation.

Public Health Service and its functions and personnel transferred to Federal Security Agency by 1939 Reorg. Plan No. I, see note under section 88 of this title.

§ 98. Vessels for quarantine officers.

The Secretary of the Navy is authorized, in his discretion, at the request of the Secretary of Health, Education, and Welfare, to place gratuitously, at the disposal of the proper quarantine authorities, at any of the ports of the United States, to be used temporarily for quarantine purposes, such vessels or hulks belonging to the United States as are not required for other uses of the National Government, subject to such restrictions and regulations as the Secretary of the Navy may deem necessary to impose for the preservation thereof. (June 14, 1879, No. 6, 21 Stat. 50; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

"Federal Security Administrator" was substituted for "National Board of Health" and "proper quarantine authorities" for "commissioners of quarantine, or the proper authorities" on the authority of act Feb. 15, 1893, ch. 114, § 9, 27 Stat. 449, which abolished the National Board of Health, and 1939 Reorg. Plan No. I. Act Feb. 15, 1893, was repealed by act July 1, 1944, ch. 373, title IX, § 913, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919, Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§§ 99 to 108. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 99, act Feb. 15, 1893, ch. 114, § 12, as added Mar. 3, 1901, ch. 836, 31 Stat. 1087, which provided medical officers performing duties as quarantine officers with authority to administer oaths, is now covered by section 272 of this title.

Section 100, act Feb. 15, 1893, ch. 114, § 8, 27 Stat. 452, provided compensation for use of State buildings for quarantine purposes.

Section 101, act June 19, 1906, ch. 3433, § 5, 34 Stat. 301, which provided for the acquisition of quarantine stations, is now covered by section 267 of this title.

Section 102, act Feb. 15, 1893, ch. 114, § 10, as added Mar. 3, 1901, ch. 836, 31 Stat. 1086; and amended July 1, 1902, ch. 1370, § 1, 32 Stat. 712, which provided for the establishment of quarantine grounds, is now covered by sections 267 and 271 of this title.

Section 103, act June 19, 1906, ch. 3433, § 1, 34 Stat. 299, which provided for the control and management of quarantine grounds, is now covered by section 267 of this title.

Section 104, acts June 19, 1906, ch. 3433, § 2, 34 Stat. 299; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, provided for the transferral of title of land and water from other departments to the Service for its use.

Section 105, act June 19, 1906, ch. 3433, § 3, 34 Stat. 300, provided for notice of selection of places for quarantine stations and anchorages.

Section 106, acts Aug. 1, 1888, ch. 727, § 1, 25 Stat. 355; July 1, 1902, ch. 1370, § 1, 32 Stat. 712; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided penalties for trespass on quarantine stations, is now covered by section 271 of this title.

Section 107, act Mar. 27, 1890, ch. 51, § 2, 26 Stat. 31, which provided penalties for the violation of quarantine laws by officers of Service, is now covered by section 271 of this title.

Section 108, act Mar. 27, 1890, ch. 51, § 3, 26 Stat. 32, which provided penalties for the violation of quarantine laws by common carriers, is now covered by section 271 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 109. Repealed. May 29, 1928, ch. 901, § 1 (24), 45 Stat. 986, 988.

Section, acts June 12, 1917, ch. 27, § 1, 40 Stat. 121; June 5, 1920, ch. 235, § 1, 41 Stat. 885; Feb. 17, 1922, ch. 55, 42 Stat. 380; Jan. 3, 1923, ch. 22, 42 Stat. 1102; Apr. 4, 1924, ch. 84, title I, 43 Stat. 76; Jan. 20, 1925, ch. 85, § 1, 43 Stat. 757; Jan. 22, 1925, ch. 87, title I, 43 Stat. 775, required a detailed report to be made to Congress of expenditures to prevent epidemics.

§§ 110, 111. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 110, acts June 5, 1920, ch. 235, § 1, 41 Stat. 875; June 16, 1921, ch. 23, § 1, 42 Stat. 38, which provided for a schedule of charges for vessels at New York quarantine station, is now covered by section 269 of this title.

Section 111, act Feb. 15, 1893, ch. 114, § 7, 27 Stat. 452, which provided for the suspension of immigration, is now covered by section 265 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

§ 112. Removal of revenue officers from port during epidemic.

Whenever, by the prevalence of any contagious or epidemic disease in or near the place by law established as the port of entry for any collection district, it becomes dangerous or inconvenient for the officers of the revenue employed therein to continue the discharge of their respective offices at such port, the Secretary of the Treasury, or, in his absence, the Undersecretary of the Treasury, may direct the removal of the officers of the revenue from such port to any other more convenient place, within, or as near as may be to, such collection district. And at such place such officers may exercise the same powers, and shall be liable to the same duties, according to existing circumstances, as in the port or district established by law. Public notice of any such removal shall be given as soon as may be. (R. S. § 4797; July 31, 1894, ch. 174, § 4, 28 Stat. 205; June 10, 1921, ch. 18, § 301, 42 Stat. 23; Feb. 17, 1922, ch. 55, 42 Stat. 366.)

DERIVATION

Act Feb. 23, 1799, ch. 12, § 4, 1 Stat. 620.

CODIFICATION

Acts July 31, 1894, and June 10, 1921, abolished the offices of First Comptroller and Comptroller of the Treasury.

Act Feb. 17, 1922, substituted "Undersecretary of the Treasury" for "the First Comptroller".

CROSS REFERENCES

Cost of removal of public officer by reason of sickness, etc., see section 554 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 97 of this title.

§§ 113, 114. Repealed. June 25, 1948, ch. 646, §§ 21, 39, 62 Stat. 862, 992, eff. Sept. 1, 1948.

Section 113, R. S. § 4799; act Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167, related to adjournment of courts during an epidemic.

Section 114, R. S. § 4800, related to removal of prisoners during an epidemic.

Chapter 3.—LEPROSY

STATION AND LABORATORY AT MOLOKAI, HAWAII

§§ 121 to 125. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 121, acts Mar. 3, 1905, ch. 1443, § 1, 33 Stat. 1009; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, provided for the establishment in perpetuity of a hospital station and laboratory at Molokai, Hawaii.

Section 122, act Mar. 3, 1905, ch. 1443, § 3, 33 Stat. 1009, which provided for the admission and treatment of leper patients, is now covered by section 255 of this title.

Section 123, act Mar. 3, 1905, ch. 1443, § 4, 33 Stat. 1009; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for the detail of officers and employees for leprosy work, is now covered by section 215 of this title.

Section 124, acts Mar. 3, 1905, ch. 1443, § 6, 33 Stat. 1010; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided regulations for administration of hospital station and laboratory, is now covered by section 256 of this title.

Section 125, acts Mar. 3, 1905, ch. 1443, § 7, 33 Stat. 1010; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1394; Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which provided for additional pay and allowances to officers detailed on leprosy duty, is now covered by section 210 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

LEPROSY HOME IN UNITED STATES

§§ 131 to 135. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 131, act Feb. 3, 1917, ch. 26, § 1, 39 Stat. 872, provided for the establishment of a leprosy home in the United States.

Section 132, act Feb. 3, 1917, ch. 26, § 4, 39 Stat. 873, provided for the erection of buildings for the home.

Section 133, act Feb. 3, 1917, ch. 26, § 2, 39 Stat. 873, which provided for receipt of lepers into the home, is now covered by section 255 of this title.

Section 134, act Feb. 3, 1917, ch. 26, § 3, 39 Stat. 873, which provided for regulations governing the home, is now covered by sections 255 and 256 of this title.

Section 135, act Feb. 3, 1917, ch. 26, § 5, 39 Stat. 873, which provided for additional pay of officers detailed to duty at said home, is now covered by section 210 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

Chapter 3A.—CANCER

§§ 137 to 137g. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 137, act Aug. 5, 1937, ch. 565, § 1, 50 Stat. 559, which provided for the establishment of the National Cancer Institute, is now covered by section 281 of this title.

Section 137a, act Aug. 5, 1937, ch. 565, § 2, 50 Stat. 559, which provided for the powers and duties of the Surgeon General, is now covered by section 282 of this title.

Section 137b, act Aug. 5, 1937, ch. 565, § 3, 50 Stat. 560, which provided for the establishment of the National Advisory Cancer Council, is now covered by section 218 of this title.

Section 137c, act Aug. 5, 1937, ch. 565, § 4, 50 Stat. 560, which provided for the powers and functions of the Council, is now covered by section 284 of this title.

Section 137d, act Aug. 5, 1937, ch. 565, § 5, 50 Stat. 561, which provided for the administration of powers by Surgeon General, is now covered by section 283 of this title.

Section 137e, act Aug. 5, 1937, ch. 565, § 6, 50 Stat. 561, which provided for the acceptance of gifts, is now covered by section 283 of this title.

Section 137f, act Aug. 5, 1937, ch. 565, § 7, 50 Stat. 561, which provided for appropriations, is now covered by section 285 of this title.

Section 137g, act Aug. 5, 1937, ch. 565, § 8, 50 Stat. 562, which related to appointment of officers, functions under other provisions, regulations, reports, effective date, and citation, is now covered in part by sections 209, 216, 229, and 286 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

Chapter 4.—VIRUSES, SERUMS, TOXINS, ANTITOXINS, ETC.

§§ 141 to 148. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714

Section 141, act July 1, 1902, ch. 1378, § 1, 32 Stat. 728, which provided for the regulation of sale of and interstate traffic of viruses, serums, toxins, antitoxins, etc., is now covered by section 262 of this title.

Section 142, act July 1, 1902, ch. 1378, § 2, 32 Stat. 729, which related to falsely labeling or marking container or package, is now covered by section 262 of this title.

Section 143, act July 1, 1902, ch. 1378, § 3, 32 Stat. 729, which provided for the inspection of manufacturing establishments, is now covered by section 262 of this title.

Section 144, act July 1, 1902, ch. 1378, § 4, 32 Stat. 729, which provided for the inspection of foreign manufacturing establishments, is now covered by section 262 of this title.

Section 145, acts July 1, 1902, ch. 1370; § 1, 32 Stat. 712; July 1, 1902, ch. 1378, § 4, 32 Stat. 729; Aug. 14, 1912, ch. 288, 37 Stat. 309, which provided for issuing of licenses to manufacturing establishments, is now covered by section 262 of this title.

Section 146, act July 1, 1902, ch. 1378, § 5, 32 Stat. 729, provided for the enforcement of regulations, and is now covered by section 262 of this title.

Section 147, act July 1, 1902, ch. 1378, § 6, 32 Stat. 729, which provided against interfering with officers, is now covered by section 262 of this title.

Section 148, act July 1, 1902, ch. 1378, § 7, 32 Stat. 729, which related to penalties for offenses, is now covered by section 262 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89-239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

Chapter 5.—MATERNITY AND INFANCY WELFARE AND HYGIENE

§§ 161 to 175. Repealed. Jan. 22, 1927, ch. 53, § 2, 44 Stat. 1024, eff. June 30, 1929.

Sections 161-175 were from acts Nov. 23, 1921, ch. 135, §§ 1—14, 42 Stat. 224—226; Mar. 10, 1924, ch. 46, § 3, 43 Stat. 17; Jan. 22, 1927, ch. 53, § 1, 44 Stat. 1024, and created a Board of Maternity and Infant Hygiene under supervision of Children's Bureau.

Chapter 6.—THE CHILDREN'S BUREAU

Sec.
191. Bureau established.
192. Chief of bureau; investigations and reports.
193. Assistant chief.
194. Quarters for bureau.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 section 2102.

§ 191. Bureau established.

There shall be established in the Department of Health, Education, and Welfare a bureau to be known as the Children's Bureau. (Apr. 9, 1912, ch. 73, § 1, 37 Stat. 79; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Agency" was substituted for "Department of Labor" by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, which transferred the Children's Bureau, exclusive of its Industrial Division, from the Department of Labor to the Federal Security Agency. Functions of the Bureau, its Chief, and of the Secretary of Labor relating to such functions, were transferred to the Federal Security Administrator.

Functions authorized by section 192 of this title and such other functions of the Federal Security Agency as the Administrator might designate were to be administered through the Children's Bureau under his direction and control; and

Functions of the Children's Bureau under sections 201—216, 217—219 of Title 29, Labor, were transferred to the Secretary of Labor.

For transfer of personnel, property, records and funds, see section 12 of 1946 Reorg. Plan No. 2.

Act Apr. 9, 1912, established the Children's Bureau in the Department of Commerce and Labor. Act Mar. 4, 1913, transferred the Children's Bureau to the Department of Labor, which was created by that act, and is authority for the substitution of "Department of Labor" for "Department of Commerce and Labor".

CROSS REFERENCES

Health research and research training resources in participating foreign countries, use by Secretary in exercise of functions under this chapter, see section 2102 of Title 22, Foreign Relations and Intercourse.

§ 192. Chief of bureau; investigations and reports.

The Children's Bureau shall be under the direction of a chief, to be appointed by the President, by and with the advice and consent of the Senate. The said bureau shall investigate and report to the Secretary of Health, Education, and Welfare, upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the questions of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several States and Territories. But no official, or agent, or representative of said bureau shall, over the objection of the head of the family, enter any house used exclusively as a family residence. The chief of said bureau may from time to time publish the results of these investigations in such manner and to such extent as may be prescribed by the Secretary. (Apr. 9, 1912, ch. 73, § 2, 37 Stat. 79; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; Feb. 27, 1925, ch. 364, title IV, 43 Stat. 1050; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Act Feb. 27, 1925, making an appropriation for the chief of the Children's Bureau "in accordance with the Classification Act of 1923", which was classified to section 661 et seq. of former Title 5, Executive Departments and Government Officers and Employees, is authority for the omission of "and who shall receive an annual compensation of five thousand dollars" at end of first sentence.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "said department" and for "Secretary of Labor" by 1946 Reorg. Plan No. 2. See note under section 191 of this title.

"Secretary of Labor" was substituted for "Secretary of Commerce and Labor" by act Mar. 4, 1913. See note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289h of this title.

§ 193. Assistant chief.

There shall be in the Children's Bureau, until otherwise provided for by law, an assistant chief, to be appointed by the Secretary of Health, Education, and Welfare. (Apr. 9, 1912, ch. 73, § 3, 37 Stat. 80; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Section 3 of act Apr. 9, 1912, also provided for compensation of assistant chief and for appointment and compensation of other employees of the bureau.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "Secretary of Labor" by 1946 Reorg. Plan No. 2. See note under section 191 of this title.

"Secretary of Labor" was substituted for "Secretary of Commerce and Labor" by act Mar. 4, 1913. See note under section 191 of this title.

§ 194. Quarters for bureau.

The Secretary of Health, Education, and Welfare is directed to furnish sufficient quarters for the work of this bureau at an annual rental not to exceed $2,000. (Apr. 9, 1912, ch. 73, § 4, 37 Stat. 80; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "Secretary of Labor" by 1946 Reorg. Plan No. 2. See note under section 191 of this title.

"Secretary of Labor" was substituted for "Secretary of Commerce and Labor" by act Mar. 4, 1913. See note under section 191 of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2677, 2687 of this title.

SUBCHAPTER I.—ADMINISTRATION

§ 201. Definitions.

When used in this chapter—

(a) The term "Service" means the Public Health Service;

(b) The term "Surgeon General" means the Surgeon General of the Public Health Service;

(c) Unless the context otherwise requires, the term "Secretary" means the Secretary of Health, Education, and Welfare.

(d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Secretary;

(e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f) The term "State" means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that as used in section 264(d) of this title such term means a State or the District of Columbia;

(g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;

(h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;

(i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 3228 (f) of Title 26);

(k) The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(*l*) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation;

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth; and

(p) The term "uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey.

(q) The term "drug dependent person" means a person who is using a controlled substance (as defined in section 802 of Title 21) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence. (July 1, 1944, ch. 373, title I, § 2, 58 Stat. 682; July 3, 1946, ch. 538, § 3, 60 Stat. 421; Feb. 28, 1948, ch. 83, § 1, 62 Stat. 38; June 16, 1948, ch. 481, § 6 (a), 62 Stat. 469; June 24, 1948, ch. 621, § 6 (a), 62 Stat. 601; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 25, 1959, Pub. L. 86–70 § 31(a), 73 Stat. 148; Apr. 8, 1960, Pub. L. 86–415, § 5(a), 74 Stat. 34; July 12, 1960, Pub. L. 86–624, § 29(a), 74 Stat. 419; Mar. 13, 1970, Pub. L. 91–212, § 11, 84 Stat. 67; Oct. 27, 1970, Pub. L. 91–513, § 2(b), 84 Stat. 1240.)

References in Text

Section 3228 (f) of Title 26, referred to in subsec. (j), which was a reference to section 3228 (f) of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 4731 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Amendments

1970—Subsec. (c). Pub. L. 91–212 qualified the definition by prefixing "Unless the context otherwise requires".

Subsec. (q). Pub. L. 91–513 added subsec. (q).

1960—Subsec. (f). Pub. L. 86–624 eliminated "Hawaii," preceding "Puerto Rico."

Subsec. (p). Pub. L. 86–415 added subsec. (p).

1959—Subsec. (f). Pub. L. 86–70 eliminated "Alaska," following "Hawaii," and substituted "or the District of Columbia" for ", the District of Columbia, or Alaska".

1948—Subsec. (j). Act Feb. 28, 1948, added "isonipecaine and its * * * of Title 26".

Subsec. (n). Act June 16, 1948, added subsec. (n) which defines "heart disease".

Subsec. (o). Act June 24, 1948, added subsec. (o) to define "dental diseases and conditions".

1946—Subsecs. (*l*), (m). Act July 3, 1946, added subsecs. (m) and (n).

Effective Date of 1970 Amendment

Amendment by Pub. L. 91–212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91–212, set out as a note under section 276 of this title.

Effective Date of 1960 Amendment

Amendment of subsec. (f) of this section by Pub. L. 86–624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86–624, set out as a note under section 645 of Title 20, Education.

Effective Date of 1959 Amendment

Amendment of section by Pub. L. 86–70 effective on January 3, 1959, see section 47(d) of Pub. L. 86–70.

Short Title of 1960 Amendments

Section 1 of Pub. L. 86–415 provided that Pub. L. 86–415, which amended this section and sections 209, 210, 211, 212, 253 and 415 of this title and former section 2251

of Title 5 [before the reorganization of that title by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378], and enacted provisions set out as notes under sections 209 and 212 of this title and former section 2253 of Title 5 [before its reorganization, see above], may be cited as the "Public Health Service Commissioned Corps Personnel Act of 1960."

SHORT TITLE OF 1946 AMENDMENTS

Section 1 of act July 3, 1946, provided that such act, which is classified to sections 201, 209, 210, 215, 218, 219, 232, 241, 242a, 244 and 246 of this title, shall be popularly known as the "National Mental Health Act".

SHORT TITLE

Section 1 of act July 1, 1944, as amended by acts Aug. 13, 1946, ch. 958, § 4, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(a), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(a), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(a), 79 Stat. 930; Dec. 24, 1970, Pub. L. 91-572, § 6(a), 84 Stat. 1506, provided that: "Titles I to X, inclusive, of this Act [subchapters I to VIII of this chapter] may be cited as the 'Public Health Service Act'."

REPEALS

Section 1113 of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 5, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506, repealed outright sections in this title and Titles 8, 14, 21, 24, 31, 33, 44, 48, and amended sections by repealing parts of said sections in this title and in Titles 8, 14, 24, 31, 34, 46, 48, 49.

SAVINGS CLAUSE

Section 1114 of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1056, provides, "The repeal of the several statutes or parts of statutes accomplished by section 1013 [act July 1, 1944, ch. 373, title XI, 58 Stat. 714] shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue, and may be enforced in the same manner, as if such repeal had not been made."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration, and all functions of the Survey, not already transferred by 1950 Reorg. Plan No. 5, were transferred to the Secretary of Commerce.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan. No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

PURPOSE OF ACT JULY 3, 1946

Section 2 of act July 3, 1946, provided: "The purpose of this Act [sections 201, 209, 210, 215, 218, 219, 232, 241, 242a, 244, and 246 of this title] is the improvement of the mental health of the people of the United States through the conducting of researches, investigations, experiments, and demonstrations relating to the cause, diagnosis, and treatment of psychiatric disorders; assisting and fostering such research activities by public and private agencies, and promoting the coordination of all such researches and activities and the useful application of their results; training personnel in matters relating to mental health; and developing, and assisting States in the use of, the most effective methods of prevention, diagnosis, and treatment of psychiatric disorders."

EXISTING POSITIONS, PROCEDURES, REGULATIONS, FUNDS, APPROPRIATIONS, AND PROPERTY

Section 1104 of act July 1, 1944, as renumbered by acts by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506, provided:

"SEC. 1101. (a) The provisions of this Act [this chapter], shall not affect the term or tenure of office or employment of the Surgeon General, or of any officer or employee of the Service, or of any member of the National Advisory Health Council or the National Advisory Cancer Council, in office or employed at the time of its enactment.

"(b) Notwithstanding the provisions of this Act [this chapter], existing positions, divisions, committees, and procedures in the Service shall continue unless and until abolished, changed, or transferred pursuant to authority granted in this Act [this chapter].

"SEC. 1102. Notwithstanding the provisions of this Act [this chapter], existing rules, regulations of or applicable to the Service, and Executive orders, shall remain in effect until repealed, or until modified or superseded by regulations made in accordance with the provisions of this Act [this chapter].

"SEC. 1103. All appropriations, allocations, and other funds, and all properties available for use by the Public Health Service or any division or unit thereof shall continue to be available to the Service."

APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITATION ACTIVITIES

Section 1104 of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506, authorized annual appropriations during World War II and during period of demobilization to conduct health and sanitation activities in military, naval, or industrial areas. Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of section 1004 of act July 1, 1944, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

DEFINITION OF "SECRETARY"

Pub. L. 90-174, §15, Dec. 5, 1967, 81 Stat. 542, provided that: "As used in the amendments made by this Act [enacting sections 217b, 243(c), 251(b), 254a, 263a, and 291m-1, and amending sections 242b, 242g(c), 246(d)(1), (e), and 296e(c)(1) of this title], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

AVAILABILITY OF APPROPRIATIONS

Pub. L. 91-296, title VI, § 601, June 30, 1970, 84 Stat. 353, provided that: "Notwithstanding any other provision of law, unless enacted after the enactment of this Act [June 30, 1970] expressly in limitation of the provisions of this section, funds appropriated for any fiscal year ending prior to July 1, 1973, to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) [this chapter] or the Mental Retardation Facilities and Community Mental Health Centers Construction

Act of 1963 (Public Law 88-164, as amended) [sections 2661 et seq. of this title] shall remain available for obligation and expenditure until the end of such fiscal year."

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this chapter, see Pub. L. 86-613, § 17, July 12, 1960, 74 Stat. 380, set out as a note under section 1261 of Title 15, Commerce and Trade.

§ 202. Administration and supervision of Service.

The Public Health Service in the Department of Health, Education, and Welfare shall be administered by the Surgeon General under the supervision and direction of the Secretary. (July 1, 1944, ch. 373, title II, § 201, 58 Stat. 683; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan. No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

INTERNATIONAL HEALTH ADMINISTRATION

Ex. Ord. No. 10399, Sept. 27, 1952, 17 F.R. 8648, designated the Surgeon General to perform certain duties under the International Sanitary Regulations of the World Health Organization.

REORGANIZATION PLAN NO. 3 OF 1966

Eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of Title 5, Government Organization and Employees].

PUBLIC HEALTH SERVICE

SECTION 1. TRANSFER OF FUNCTIONS

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SEC. 3. ABOLITIONS

(a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS

As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of th Department which relate to functions affected by this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of health functions of the Department of Health, Education, and Welfare.

I

Today we face new challenges and unparalleled opportunities in the field of health. Building on the progress of the past several years, we have truly begun to match the achievements of our medicine to the needs of our people.

The task ahead is immense. As a nation, we will unceasingly pursue our research and learning, our training and building, our testing and treatment. But now our concern must also turn to the organization of our Federal health programs.

As citizens we are entitled to the very best health services our resources can provide.

As taxpayers, we demand the most efficient and economic health organizations that can be devised.

I ask the Congress to approve a reorganization plan to bring new strength to the administration of Federal health programs.

I propose a series of changes in the organization of the Public Health Service that will bring to all Americans a structure modern in design, more efficient in operation and better prepared to meet the great and growing needs of the future. Through such improvements we can achieve the full promise of the landmark health legislation enacted by the 89th Congress.

I do not propose these changes lightly. They follow a period of careful deliberation. For many months the Secretary of Health, Education, and Welfare and the Surgeon General have consulted leading experts in the Nation—physicians, administrators, scientists, and public health specialists. They have confirmed my belief that modernization and reorganization of the Public Health Service are urgently required and long overdue.

II

The Public Health Service is an operating agency of the Department of Health, Education, and Welfare. It is the principal arm of the Federal Government in the field of health. Its programs are among those most vital to our well-being.

Since 1953 more than 50 new programs have been placed in the Public Health Service. Its budget over the past 12 years has increased tenfold—from $250 million to $2.4 billion.

Today the organization of the Public Health Service is clearly obsolete. The requirement that new and expanding programs be administered through an organizational structure established by law more than two decades ago stands as a major obstacle to the fulfillment of our Nation's health goals.

As presently constituted, the Public Health Service is composed of four major components:

National Institutes of Health.
Bureau of State Services.
Bureau of Medical Services.
Office of the Surgeon General.

Under present law, Public Health Service functions must be assigned only to these four components.

This structure was designed to provide separate administrative arrangements for health research, programs of

State and local aid, health services, and executive staff resources. At a time when these functions could be neatly compartmentalized, the structure was adequate. But today the situation is different.

Under recent legislation many new programs provide for an integrated attack on specific disease problems or health hazards in the environment by combining health services, State and local aid, and research. Each new program of this type necessarily is assigned to one of the three operating components of the Public Health Service. Yet none of these components is intended to administer programs involving such a variety of approaches.

Our health problems are difficult enough without having them complicated by outmoded organizational arrangements.

But if we merely take the step of integrating the four agencies within the Public Health Service we will not go far enough. More is required.

III

The Department of Health, Education, and Welfare performs major health or health-related functions which are not carried out through the Public Health Service, although they are closely related to its functions. Among these are:

Health insurance for the aged, administered through the Social Security Administration;

Medical assistance for the needy, administered through the Welfare Administration;

Regulation of the manufacture, labeling, and distribution of drugs, carried out through the Food and Drug Administration; and

Grants-in-aid to States for vocational rehabilitation of the handicapped, administered by the Vocational Rehabilitation Administration.

Expenditures for health and health-related programs of the Department administered outside the Public Health Service have increased from $44 million in 1953 to an estimated $5.4 billion in 1967.

As the head of the Department, the Secretary of Health, Education, and Welfare is responsible for the administration and coordination of all the Department's health functions. He has clear authority over the programs I have just mentioned.

But today he lacks this essential authority over the Public Health Service. The functions of that agency are vested in the Surgeon General and not in the Secretary.

This diffusion of responsibility is unsound and unwise.

To secure the highest possible level of health services for the American people the Secretary of Health, Education, and Welfare must be given the authority to establish—and modify as necessary—the organizational structure for Public Health Service programs.

He must also have the authority to coordinate health functions throughout the Department. The reorganization plan I propose will accomplish these purposes. It will provide the Secretary with the flexibility to create new and responsive organizational arrangements to keep pace with the changing and dynamic nature of our health programs.

My views in this respect follow a basic principle of good government set by the Hoover Commission in 1949 when it recommended that "the Department head should be given authority to determine the organization within his Department."

IV

In summary, the reorganization plan would:

Transfer to the Secretary of Health, Education, and Welfare the functions now vested in the Surgeon General of the Public Health Service and in its various subordinate units (this transfer will not affect certain statutory advisory bodies such as the National Advisory Cancer and Heart Councils);

Abolish the four principal statutory components of the Public Health Service, including the offices held by their heads (the Bureau of Medical Services, the Bureau of State Services, the National Institutes of Health exclusive of its several research institutes such as the National Cancer and Heart Institutes, and the Office of the Surgeon General); and

Authorize the Secretary to assign the functions transferred to him by the plan to officials and entities of the Public Health Service and to other agencies of the Department as he deems appropriate.

Thus, the Secretary would be—

Enabled to assure that all health functions of the Department are carried out as effectively and economically as possible;

Given authority commensurate with his responsibility; and

Made responsible in fact for matters for which he is now, in any case, held accountable by the President, the Congress, and the people.

V

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

Should the reorganizations in the accompanying reorganization plan take effect, they will make possible more effective and efficient administration of the affected health programs. It is, however, not practicable at this time to itemize the reductions in expenditures which may result.

I strongly recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, April 25, 1966.

EXECUTIVE ORDER NO. 10506

Ex. Ord. No. 10506, Dec. 14, 1953, 18 F.R. 8219, which delegated certain functions of the President relating to the Public Health Service, was superseded by Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under this section.

EX. ORD. NO. 11140. DELEGATION OF FUNCTIONS

Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, provided:

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Health, Education, and Welfare is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the following-described functions vested in the President under the Public Health Service Act (58 Stat. 682), as amended [this chapter]:

(a) The authority under Section 203 (42 U.S.C. 204): to appoint commissioned officers of the Reserve Corps.

(b) The authority under Section 206(b) (42 U.S.C. 207(b)) to prescribe titles, appropriate to the several grades, for commissioned officers of the Public Health Service other than medical officers.

(c) The authority under Section 207(a)(2) (42 U.S.C. 209(a)(2)) to terminate commissions of officers of the Reserve Corps without the consent of the officers concerned.

(d) The authority under Section 210 (a), (k), and (*l*) (42 U.S.C. 211 (a), (k), and (*l*)) to make or terminate temporary promotions of commissioned officers of the Regular Corps and Reserve Corps.

(e) The authority under Section 211(a)(5) (42 U.S.C. 212(a)(5)) to approve voluntary retirements under that section.

(f) The authority to prescribe regulations under the following-designated Sections: 207(a), 207(b), 208(e), 210(a), 210(b), 210(d)(1), 210(h), 210(i), 210(j)(1), 210(k), 215(a), 218(a), 219(a), and 510 (42 U.S.C. 209(a), 209(b), 210(e), 211(a), 211(b), 211(d)(1), 211(h),, 211(i), 211(j)(1), 211(k), 216(a), 218a(a), 210–1(a), and 228).

(g) The authority under Sections 321(a) and 364(a) (42 U.S.C. 248(a) and 267(a)) to approve the selection of suitable sites for and the establishment of additional institutions, hospitals, stations, grounds, and anchorages; subject, however, to the approval of the Director of the Bureau of the Budget, except as he may otherwise provide.

SEC. 2. The Surgeon General is hereby authorized and empowered, without the approval, ratification, or other action of the President, to perform the function vested in the President by Sections 203 and 207(a)(2) of the Public Health Service Act (58 Stat. 683, 685), as amended (42

U.S.C. 204 and 209(a)(2)), or otherwise, of accepting voluntary resignations of commissioned officers of the Regular Corps or the Reserve Corps.

SEC. 3. The Secretary of Health, Education, and Welfare is hereby authorized and empowered, without the approval, ratification, or other action of the President, to exercise the authority vested in the President by Section 704 of Title 37 of the United States Code to prescribe regulations.

SEC. 4. The Secretary of Health, Education, and Welfare is hereby authorized to redelegate all or any part of the functions set forth under (a), (b), (c), and (d) of Section 1 hereof to the Surgeon General of the Public Health Service or other official of that Service who is required to be appointed by and with the advice and consent of the Senate.

SEC. 5. All actions heretofore taken by appropriate authority with respect to the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved with respect to such matters, shall, except as they may be inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 6. As used in this order, the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

SEC. 7. (a) Executive Order No. 10506 of December 10, 1953, entitled "Delegating Certain Functions of the President under the Public Health Service Act," is hereby superseded.

(b) Executive Orders Nos. 9993 of August 31, 1948, 10031 of January 26, 1949, 10280 of August 16, 1951, 10354 of May 26, 1952, and 10497 of October 27, 1953, which prescribed regulations relating to commissioned officers and employees of the Public Health Service, are hereby revoked. Nothing in this subsection shall be deemed to alter or otherwise affect the regulations prescribed by the Surgeon General (42 CFR Parts 21 and 22) to replace the regulations prescribed by the orders described in the preceeding sentence.

LYNDON B. JOHNSON

§ 203. Organization of Service.

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient. (July 1, 1944, ch. 373, title II, § 202, 58 Stat. 683; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Act June 16, 1948, substituted in cl. (2) "National Institutes of Health" for "National Institute of Health".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF AGENCIES

The Bureau of Medical Services, Bureau of State Services, National Institutes of Health, excluding the several research Institutes in the agency, and the Office of the Surgeon General were abolished by section 3 of 1966 Reorg. Plan No. 3, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 226 of this title.

§ 204. Composition of commissioned corps; appointment of commissioned officers of Regular and Reserve Corps.

There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to chapter 51 and subchapter III of chapter 53 of Title 5. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps. (July 1, 1944, ch. 373, title II, § 203, 58 Stat. 683; Feb. 28, 1948, ch. 83, § 2, 62 Stat. 39; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" [which for the purposes of codification has been translated as chapter 51 and subchapter III of chapter 53 of Title 5], for "Classification Act of 1923".

1948—Act Feb. 28, 1948, struck out the last sentence which read "All active service in the Reserve Corps, as well as service in the Regular Corps, shall be credited for the purpose of promotion in the Regular Corps."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, and the Surgeon General, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

OSTEOPATHS AS RESERVE OFFICERS

Section 709 of act July 1, 1944, renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which provided for appointment of osteopaths as reserve officers until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 205. Appointment and tenure of office of Surgeon General; reversion in rank.

The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General. (July 1, 1944, ch. 373, title II, § 204, 58 Stat. 684.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 206 of this title.

§ 206. Assignment of officers as Deputy Surgeon General and Assistant Surgeons General; creation of temporary positions as Assistant Surgeons General.

(a) The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b) The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 205 of this title and subsections (a) and (b) of this section, shall not on any day exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.

(d) The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General. (July 1, 1944, ch. 373, title II, § 205, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 3, 62 Stat. 39; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Subsec. (b). Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

Subsec. (c). Act Feb. 28, 1948, added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Act Feb. 28, 1948, redesignated former subsec. (c) as (d).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICES

The Office of the Surgeon General, together with the office held by the Deputy Surgeon General, the Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services, the Bureau of State Services, including the office of Chief of the Bureau of State Services, and the National Institutes of Health, including the office of Director of the National Institutes of Health, were abolished by section 3 of 1966 Reorg. Plan No. 3, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 210b of this title.

§ 207. Grades, ranks, and titles of the commissioned corps; maximum number in grade for each fiscal year.

(a) The Surgeon General, during the period of his appointment as such, shall be of the same grade as the Surgeon General of the Army; the Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with the grade of major general; and the Chief Dental Officer, while assigned as such, shall have the grade as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Secretary after considering the importance of the duties to be performed: *Provided,* That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 206 of this title or pursuant to subsection (c) of sec-

tion 206 of this title. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

(1) Officers of the director grade—colonel;

(2) Officers of the senior grade—lieutenant colonel;

(3) Officers of the full grade—major;

(4) Officers of the senior assistant grade—captain;

(5) Officers of the assistant grade—first lieutenant; and

(6) Officers of the junior assistant grade—second lieutenant.

(b) The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon, and (6) junior assistant surgeon. The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix "Reserve."

(c) Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

(d) Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Secretary shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this chapter) any officer to be separated from the Service or reduced in grade. (July 1, 1944, ch. 373, title II, § 206, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 4, 62 Stat. 39; Oct. 31, 1951, ch. 653, 65 Stat. 700; July 17, 1952, ch. 931, 66 Stat. 758; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 7, 1962, Pub. L. 87-649, § 11(1), 76 Stat. 497.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-649 eliminated provisions which related to pay and allowances.

1952—Subsec. (a). Act July 17, 1952, provided that the Chief Medical Officer of the Coast Guard should have the grade, pay, and allowances of a major general.

1951—Subsec. (a). Act Oct. 31, 1951, provided equality of grade, pay, and allowances between the Chief Dental Officer and the comparable officer in the Army.

1948—Subsec. (a). Act Feb. 28, 1948, increased grade of Deputy Surgeon General from brigadier general to major general and increased grade of certain Assistant Surgeons General from brigadier general to major general as the Federal Security Administrator might determine.

Subsecs. (c), (d). Act Feb. 28, 1948, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and elWfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICES

The Office of the Surgeon General, together with the office held by the Deputy Surgeon General, were abolished by section 3 of 1966 Reorg. Plan No. 3, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210b of this title.

§ 208. Repealed. Feb. 28, 1948, ch. 83, § 5 (a), 62 Stat. 40.

Section, act July 1, 1944, ch. 373, title II, § 207, 58 Stat. 685, related to establishment of special temporary provisions and is now covered in part by sections 206 (c) and 207 (c) of this title.

§ 209. Appointment of personnel.

(a) Original appointments to Regular and Reserve Corps; limitation on appointmnet and call to active duty.

(1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.

(3) No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless (A) he has had

a number of years of active service (as defined in section 212(d) of this title) equal to the number of years by which his age exceeds forty-four, or (B) the Surgeon General determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or (C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.

(b) Grade and number of original appointments.

(1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate.

(2) In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—

(A) (i) was on active duty in the Reserve Corps on July 1, 1960, (ii) was on such active duty continuously for not less than one year immediately prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1962; or

(B) does not come within clause (A) (i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1960, of more than three and one-half years prior to applying for such appointment.

(3) No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

(c) Issuance of commissions.

Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Secretary under the seal of the Department of Health, Education, and Welfare.

(d) Date of appointment; credit for service.

(1) For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of basic pay, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, in lieu of the credit provided in paragraph (1) of this subsection, be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1) of this subsection, plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

(e) Reappointment; credit for service.

(1) A former officer of the Regular Corps may, if application for appointment is made within two years after the date of the termination of his prior commission in the Regular Corps, be reappointed to the Regular Corps without examination, except as the Surgeon General may otherwise prescribe, and without regard to the numerical limitations of subsection (b) of this section.

(2) Reappointments pursuant to this subsection may be made to the permanent grade held by the former officer at the time of the termination of his prior commission, or to the next higher grade if such officer meets the eligibility requirements prescribed by regulation for original appointment to such higher grade. For purposes of pay, promotion, and seniority in grade, such reappointed officer shall receive the credits for service to which he would be entitled if such appointment were an original appointment, but in no event less than the credits he held at the time his prior commission was terminated, except that if such officer is reappointed to the next higher grade he shall receive no credit for seniority in grade.

(3) No former officer shall be reappointed pursuant to this subsection unless he shall meet such standards as the Secretary may prescribe.

(f) Special consultants.

In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws.

(g) Designation for fellowships; duties; pay.

In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws and compensated in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

(h) Aliens.

Persons who are not citizens may be employed as consultants pursuant to subsection (f) of this section and may be appointed to fellowships pursuant to subsection (g) of this section. Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

(i) Civil service appointments by Secretary.

The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Secretary, and may be made effective as of the date on which such officer or employee enters upon duty. (July 1, 1944, ch. 373, title II, § 207, formerly § 208, 58 Stat. 685; July 3, 1946, ch. 538, § 4, 60 Stat. 421; Aug. 13, 1946, ch. 958, § 3, 60 Stat. 1049; renumbered and amended Feb. 28, 1948, ch. 83, § 5 (a—d), 62 Stat. 40; Oct. 12, 1949, ch. 681, title V, § 521 (a), 63 Stat. 834; Oct. 28, 1949, ch. 782, title XI, § 1106, 63 Stat. 972; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 3 (a)—(c)(1), 70 Stat. 116; Apr. 8, 1960, Pub. L. 86-415, §§ 2, 3, 74 Stat. 32.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (f), (g) and (i), are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Provisions of subsec. (f), which authorized the compensation of consultants to be fixed without regard to the Classification Act of 1949, [now covered by chapter 51 and subchapter III of chapter 53 of Title 5], were omitted since the employees referred to are now in the classified civil service and subject to the applicable compensation schedules.

Words "in accordance with" were substituted for "without regard to" in subsec. (g), since the scientists are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by section 631a [now section 2102] of Title 5, Government Organization and Employees. By Executive Order 8743, Apr. 25, 1941, set out as a note under section 3301 of Title 5, the President exercised this authority with respect to many previously excepted positions.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-415, § 2, added par. (3).

Subsec. (b). Pub. L. 86-415, § 3, designated first, second and third sentences as par. (1), fourth sentence as par. (3) and added par. (2).

1956—Subsec. (a) (1). Act Apr. 27, 1956, § 3 (a), inserted reference to subsection (e) of this section.

Subsec. (a) (2). Act Apr. 27, 1956, § 3 (c) (1), which "an indefinite period" for "a period of not more than five years".

Subsec. (e). Act Apr. 27, 1956, § 3 (b), added subsec. (e). Former subsec. (e) redesignated (f).

Subsecs. (f)—(i). Act Apr. 27, 1956, § 3(b), redesignated former subsecs. (e)—(h) as (f)—(i).

1949—Subsec. (d). Act Oct. 12, 1949, substituted "base pay" for "pay and pay period" wherever appearing.

Subsecs. (e), (f). Act Oct. 28, 1949, substituted "Classification Act of 1949" [which for the purposes of codification has been translated as chapter 51 and subchapter III of chapter 53 of Title 5], for "Classification Act of 1923".

1948—Subsec. (a) (1). Act Feb. 28, 1948, struck out "surgery" following "several branches of medicine".

Subsec. (a) (2). Act Feb. 28, 1948, omitted "any such commission" preceding "may be terminated", and "in his discretion" following "at any time".

Subsec. (b). Act Feb. 28, 1948, provided for grade and number of original appointments.

Subsecs. (c), (d). Act Feb. 28, 1948, added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f).

Subsecs. (e), (f). Act Feb. 28, 1948, redesignated former subsecs. (c) and (d) as (e) and (f). Former subsecs. (e) and (f) redesignated (g) and (h).

Subsec. (g). Act Feb. 28, 1948, redesignated former subsec. (e) as (g) and changed reference in text from "subsection (c) of this section" to "subsection (e) of this section", and "subsection (d) of this section" to "subsection (g) of this section".

Subsec. (h). Act Feb. 28, 1948, redesignated former subsec. (f) as (h).

1946—Subsec. (b) (2). Act Aug. 13, 1946, inserted "(A)" preceding "to assist", substituted "clause" for "paragraphs", and inserted clause (B).

Subsec. (b). Act July 3, 1946, authorized the appointment of additional officers to grades above that of senior assistant but not above that of director, and limits the number so appointed to 20.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(a) of Pub. L. 86-415 provided that: "The amendments made by sections 2 and 5(b) [to subsec. (a)(3) of this section and section 210(b) of this title] shall become effective July 1, 1960."

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, was made effective as of Oct. 1, 1949.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, and the Surgeon General, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government

Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1.

TERM OF RESERVE COMMISSIONS IN EFFECT ON APR. 27, 1956

Section 3 (c) (2) of act Apr. 27, 1956, provided that: "The enactment of paragraph (1) of this subsection [amending subsec. (a) (2) of this section] shall not affect the term of the commission of any officer in the Reserve Corps in effect on the date of such enactment [April 27, 1956] unless such officer consents in writing to the extension of his commission for an indefinite period, in which event his commission shall be so extended without the necessity of a new appointment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 210b, 211a of this title.

§ 209a. Appointment of regular commissioned nurses; grades; length of service for pay periods.

The number of regular commissioned nurses appointed shall be in addition to the number of regular active commissioned officers otherwise authorized, and not to exceed fifty regular commissioned nurses may be appointed in grades above that of senior assistant and for purposes of pay and pay period shall be considered as having had on the day of appointment service equal to that of the junior officer of the grade to which appointed. (Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 856.)

CODIFICATION

Section is from the First Supplemental Appropriation Act, 1945, act Dec. 22, 1944, and is not a part of the Public Health Service Act of 1944, which comprises this chapter.

§ 209b. Appointment of additional commissioned officers; grades.

There shall be employed fifty additional regular commissioned officers, of which number twenty-four are authorized to be commissioned in the grades above that of senior assistant. (Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 857.)

CODIFICATION

Section is from the First Supplemental Appropriation Act, 1945, act Dec. 22, 1944, and is not a part of the Public Health Service Act of 1944, which comprises this chapter.

§ 209c. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499.

Section, act July 3, 1945, ch. 263, title II, 59 Stat. 370, provided that for purposes of pay and pay period the officers appointed to grades above that of senior assistant pursuant to section 209b of this title shall be considered as having had on the date of appointment service equal to that of the junior officer of the grade to which appointed.

§ 209d. Appointment of osteopaths as commissioned officers.

Graduates of colleges of osteopathy whose graduates are eligible for licensure to practice medicine or osteopathy in a majority of the States of the United States, or approved by a body or bodies acceptable to the Secretary, shall be eligible, subject to the other provisions of this chapter, for appointment as commissioned medical officers in the Public Health Service. (Feb. 28, 1948, ch. 83, § 5 (b), 62 Stat. 40; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Section was not enacted as a part of the Public Health Service Act, which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 1.

§ 210. Pay and allowances.

(a) Commissioned officers of Regular and Reserve Corps.

Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

(b) Purchase of supplies.

Commissioned officers on active duty and retired officers entitled to retired pay pursuant to section 211(g)(3), 212, or 213a(a) of this title, shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.

(c) Members of national advisory or review councils or committees.

Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this chapter, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS-18 of the General Schedule, including traveltime; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently.

(d) Field employees.

Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(e) Additional pay for leprosy detail.

Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds requires intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.

(f) Allowances included in fellowships.

Individuals appointed under section 209 (g) of this title shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.

(g) Positions in professional, scientific and executive service; compensation; appointment.

The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional and administrative personnel: *Provided,* That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule nor more than (1) the highest rate of grade 18 of the General Schedule, or (2) in the case of two such positions, the rate specified, at the time the service in the position is performed, for level II of the Executive Schedule (section 5313 of Title 5); and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose. (July 1, 1944, ch. 373, title II, § 208, formerly § 209, 58 Stat. 686; July 3, 1946, ch. 538, § 5 (a), 60 Stat. 422; renumbered and amended Feb. 28, 1948, ch. 83, § 5(a), (g), (h), 62 Stat. 40; June 16, 1948, ch. 481, § 4(d), 62 Stat. 467; June 24, 1948, ch. 621, § 4(d), 62 Stat. 601; Oct. 12, 1949, ch. 681, title V, § 521(b), 63 Stat. 834; Aug. 9, 1950, ch. 654, § 1, 64 Stat. 426; Aug. 15, 1950, ch. 714, §§ 3(e), 4(b); 64 Stat. 447; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 407; June 29, 1956, ch. 477, title II, § 201, 70 Stat. 430; June 20, 1958, Pub. L. 85–462, § 12(e), 72 Stat. 214; Sept. 6, 1958, Pub. L. 85–929, § 9, 72 Stat. 1789; Apr. 8, 1960, Pub. L. 86–415, § 5(b), 74 Stat. 34; Sept. 2, 1960, Pub. L. 86–703, title II, § 201, 74 Stat. 764; Sept. 7, 1962, Pub. L. 87–649, §§ 11(3), 14b, 76 Stat. 497, 499; Oct. 11, 1962, Pub. L. 87–793, § 1001(d), 76 Stat. 864; Oct. 15, 1968, Pub. L. 90–574, title V, § 501, 82 Stat. 1012; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(1), 84 Stat. 1310.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (g), is contained in section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–515 extended coverage to encompass members of other national review councils or national advisory or review committees established under this chapter, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, authorized service to be at the request of the Secretary in place of the Surgeon General, and revised rates of compensation and travel allowances.

1968—Subsec. (g). Pub. L. 90–574 inserted "(1)" following "nor more than", and added provisions of cl. (2).

1962—Subsec. (b). Pub. L. 87–649 eliminated sentence which permitted commissioned officers on active duty to make allotments from their pay, and substituted "Commissioned officers on active duty and retired officers" for "Such officers, and retired officers." See section 704 of Title 37, Pay and Allowances of the Uniformed Services.

Subsec (g). Pub. L. 87–793 substituted provisions requiring the rates of compensation to be not less than the minimum rate of grade 16 nor more than the highest rate of grade 18 of the General Schedule, for provisions which prescribed annual rates of compensation of not less than $12,500 nor more than $19,000.

1960—Subsec. (b). Pub. L. 86–415 authorized retired officers entitled to retired pay pursuant to section 211(g)(3), 212, or 213a(a) of this title, to purchase supplies, and included the purchase of supplies from the Air Force.

Subsec. (g). Pub. L. 86–703 substituted "one hundred and fifty" for "eighty-five" and "one hundred and fifteen" for "seventy-three."

1958—Subsec. (g). Pub. L. 85–929 substituted "in the professional, scientific, and executive service" for "in the professional and scientific service", and substituted "of specially qualified scientific, professional, and administrative personnel" for "of specially qualified scientific or professional personnel".

Subsec. (g). Pub. L. 85–462, substituted "eighty-five positions, of which not less than seventy-three shall be for the National Institutes of Health" for "sixty positions".

1956—Subsec. (g). Act June 29, 1956, substituted "$20,000" for "$15,000".

1955—Subsec. (g). Act Aug. 1, 1955, increased from thirty to sixty the number of positions which the Administrator may establish in the professional and scientific service.

1950—Subsec. (b). Act Aug. 9, 1950, struck out of the first sentence the words "and may be granted leaves of absence without any deduction from their pay", following "allotments from their pay".

Subsec. (c). Act Aug. 15, 1950, § 3(e), made provisions applicable to members of all national advisory councils.

Subsec. (g). Act Aug. 15, 1950, § 4 (b), added subsec. (g).

1949—Subsec. (a). Act Oct. 12, 1949, made section applicable to Reserve officers.

Subsec. (b). Act Oct. 12, 1949, redesignated former subsec. (c) as (b) and repealed former subsec. (b) relating to reserve officers.

Subsec. (c). Act Oct. 12, 1949, redesignated former subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Act Oct. 12, 1949, redesignated former subsec. (f) as (d) and repealed former subsec. (d) relating to female commissioned officers and defining "dependent".

Subsec. (e). Act Oct. 12, 1949, redesignated former subsec. (g) as (e) and omitted references to allowances. Former subsec. (e) redesignated (c).

Subsec. (f). Act Oct. 12, 1949, redesignated former subsec. (h) as (f). Former subsec. (f) redesignated (d).

1948—Subsec. (b). Act Feb. 28, 1948, inserted "except as otherwise provided by law".

Subsec. (e). Acts June 16, 1948, § 4 (d) and June 24, 1948, § 4 (d), made section applicable to the National Advisory Heart Council and increased the per diem of all

members from $25 to $50, and made section applicable to the National Advisory Dental Research Council, respectively.

Subsec. (h). Act Feb. 28, 1948, changed reference from "section 209 (d) of this title" to "section 209 (f) of this title".

1946—Subsec. (e). Act July 3, 1946, added "members of the National Advisory Mental Health Council."

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment of section by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, under provisions of section 1008 of Pub. L. 87-793.

Amendment of section by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (b) of this section by Pub. L. 86-415 effective July 1, 1960, see section 8(a) of Pub. L. 86-415, set out as a note under section 209 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (g) by Pub. L. 85-929 effective Sept. 6, 1958, see section 6 (a) of Pub. L. 85-929, set out as a note under section 342 of Title 21, Food and Drugs.

Amendment of subsec. (g) by Pub. L. 85-462 effective on June 20, 1958, see section 17(b) of Pub. L. 85-462.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 3 (a) of act Aug. 9, 1950, provided that the amendment of this section and the enactment of section 210-1 of this title shall become effective as of July 1, 1950.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, was effective as of Oct. 1, 1949.

REPEALS

Act July 31, 1956, ch. 804, title I, § 117(b), 70 Stat. 741, which amended subsec. (g) of this section to increase the salary rates, was repealed by Pub. L. 88-426, title III, § 305(1), Aug. 14, 1964, 78 Stat. 422.

Section 14b of Pub. L. 87-649 additionally repealed the first sentence of subsec. (b) of this section which permitted commissioned officers on active duty to make allotments from their pay. See 1962 Amendment note above.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610 effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

DUPLICATION OF BENEFITS

No grant, award, or loan of, assistance to any student under Act amended by Pub. L. 90-574, which amended this section. to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90-574, set out as a note under section 1781 of Title 38.

CROSS REFERENCES

Allotments by commissioned officers of the Public Health Service, see section 704 of Title 37, Pay and Allowances of the Uniformed Services.

National advisory councils, see section 218 of this title.

Pay and allowances of officers of Public Health Service, see Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 217a, 263f, 289 of this title.

§ 210-1. Annual and sick leave.

(a) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided,* That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b) Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499.

(c) Except in cases of emergency, no annual leave shall be granted to an officer described in subsection (a) of this section between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and the effective date of such retirement, separation or release from active duty.

(d) For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year. (July 1, 1944, ch. 373, title II, § 219, as added Aug. 9, 1950, ch. 654, § 2, 64 Stat. 426, and amended Sept. 7, 1962, Pub. L. 87-649, § 14b, 76 Stat. 499.)

PARTIAL REPEAL OF SUBSECTION (D)

Subsection (d) of this section was repealed by Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499, insofar as it was applicable to the last sentence of subsection (c) of this section which authorized a lump-sum payment to an officer credited with unused accumulated and accrued annual leave. See section 501 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-649 repealed former subsec. (b), which required forfeiture of all pay and allowances of an officer absent without leave, and is now covered by section 503 of Title 37, Pay and Allowances of the Uniformed Services.

Subsec. (c). Pub. L. 87-649 repealed last sentence which authorized a lump-sum payment for unused accumulated and accrued annual leave on the date of separation, retirement, or release from active duty, and is now covered by section 501 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE

Section effective July 1, 1950, see note set out under section 210 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

COMPENSATION FOR PRIOR ACCUMULATED AND ACCRUED LEAVE; LIMITATION; INAPPLICABLE TO OFFICERS ON TERMINAL LEAVE PRIOR TO JULY 1, 1950

Subsections (b) and (c) of section 3 of act Aug. 9, 1950, provided that:

"Any officer who, on June 30, 1949, was credited with more than sixty days of accumulated and accrued leave, shall be compensated for so much of such leave as exceeds sixty days but does not exceed one hundred and twenty days, in a lump-sum payment on the basis of the base and longevity pay, the allowance for subsistence, and the allowance for rental of quarters (whether or not he was receiving such allowance on such date), which were applicable to him on such date under provisions of law then in effect: *Provided,* That there shall be deducted from the number of days upon which such lump-sum payment is otherwise authorized to be computed the number of days of leave in excess of thirty days taken during the period from July 1, 1949, to June 30, 1950. Payments authorized pursuant to this subsection shall be due and payable on July 1, 1950. All amounts received pursuant to this subsection shall be exempt from taxation.

"The provisions of this Act [sections 210 (b) and 210–1 and notes thereunder of this title] shall not be applicable to an officer who has, prior to July 1, 1950, been placed on terminal leave preceding separation, retirement, or release from active duty."

AVAILABILITY OF FUNDS

Section 4 of act Aug. 9, 1950, provided that: "Funds appropriated by the Act of August 8, 1946 (ch. 870, 60 Stat. 910), to enable the President to carry out the provisions of the Armed Forces Leave Act of 1946 [act Aug. 9, 1946, ch. 931, 60 Stat. 963], are hereby made available for carrying out the provisions of section 3 of this Act [set out as a note under this section] and may be allotted to the Public Health Service by transfer to and merger with appropriations thereof or otherwise, in such amounts as may be determined by the Director of the Bureau of the Budget."

LEAVE REGULATIONS

Section 5 of act Aug. 9, 1950, provided that: "Except insofar as the provisions of this Act [sections 210 (b) and 210–1 and notes thereunder of this title] are inconsistent therewith, leave regulations adopted prior to the enactment of this Act [Aug. 9, 1950], pursuant to the Public Health Service Act [this chapter], shall remain in effect until repealed, amended, or superseded."

§ 210a. Repealed. Pub. L. 87–649, § 14b, Sept. 7, 1962, 76 Stat. 499.

Section, act Feb. 28, 1948, ch. 83, § 5 (e), (f), 62 Stat. 41, related to service credit for commissioned officers on active duty Feb. 28, 1948, and to service credit for pay and promotion purposes of certain appointees during period Feb. 28, 1948 to July 1, 1948.

§ 210b. Professional categories.

(a) Division of corps; basis of categories.

For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 209 (a) (1) of this title or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

(b) Assignment of officers.

Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a) of this section. Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

(c) Maximum number of officers in each category.

Within the limits fixed by the Secretary in regulations under section 207 (d) of this title for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

(d) Vacancies in grade for purposes of promotion.

The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including in the case of the director grade, officers holding such grade in accordance with section 207 (c) of this title) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 207 (c) of this title shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 206 (c) of this title, the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) Absence of vacancy in grade as affecting promotion.

The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 209 of this title, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Vacancy in grade as affecting maximum number for each category.

Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) of this section for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 207 (d) of this title; and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the

making of such promotion the number for the next lower grade shall be reduced by one. (July 1, 1944, ch. 373, title II, § 209, as added Feb. 28, 1948, ch. 83, § 5 (i), 62 Stat. 41, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 211. Promotion of commissioned officers.

(a) Permanent or temporary promotions; examination.

Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) Promotion to certain grades only to fill vacancies; regulations; definition of "restricted grade".

The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade."

(c) Examinations.

Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Permanent promotions to qualified officers on length of service.

Officers of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b) of this section) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Promotion of professional category officers to fill certain vacancies.

Officers in a professional category of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) Reexamination upon failure of promotion; effective date of promotion.

If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) of this section fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e) of this section), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) Separation from service upon failure of promotion.

If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) of this section not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade,

after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' basic pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's basic pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of 2½ per centum of the basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service.

(h) Separation from service upon refusal to stand examination.

If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) Review of record; separation from service.

At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) Determination of order of seniority.

(1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2) of this subsection, by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment.

Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Determination of requirements of Service by Secretary; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions.

Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under subsection (c) of this section for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under subsection (c) of this section) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Acceptance of promotion; oath and affidavit.

Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by section 21a of Title 5. (July 1, 1944, ch. 373, title II, § 210, 58 Stat. 687; Feb. 28, 1948, ch. 83, § 6 (a), 62 Stat. 42; Oct. 12, 1949, ch. 681, title V, § 521 (c), 63 Stat. 835; 1953 Reorg. Plan

No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 4 (a), 70 Stat. 117; Apr. 8, 1960, Pub. L. 86-415, § 5 (c), 74 Stat. 34; Sept. 7, 1962, Pub. L. 87-649, § 11(2), 76 Stat. 497.)

REFERENCES IN TEXT

Section 21a of Title 5, referred to in subsection (m), was repealed and is now covered by sections 2104(1) and 3332 of Title 5, Government Organization and Employees.

AMENDMENTS

1962—Subsec. (g). Pub. L. 87-649 substituted "basic pay" for "pay" in clauses (1) and (2).

1960—Subsec. (g). Pub. L. 86-415 substituted "of the basic pay of the permanent grade held by him at the time of retirement for each year" for "of his active duty pay at the time of retirement for each complete year" in cl. (3).

1956—Subsec. (d) (2). Act Apr. 27, 1956, deleted "pay period and for purposes of" preceding "seniority in grade".

1949—Subsec. (g). Act Oct. 12, 1949, struck out "incurred in line of duty" wherever appearing.

1948—Act Feb. 28, 1948, amended subsecs. (a)—(c) generally, and added subsecs. (d)—(m).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, was effective Oct. 1, 1949.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 210, 211b, 212 of this title.

§ 211a. Appointment to higher grades for mental health and hospital construction activities.

Twenty officers may be appointed to grades in the Regular Corps of the Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of this chapter with respect to mental health and twenty officers may be appointed to such grades in the Regular Corps to assist in carrying out subchapter IV of this chapter. Officers appointed pursuant to this section in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 209 (b) of this title; but they shall for all other purposes be treated as though appointed pursuant to such section 209 (b) of this title. The twenty officers authorized by this section to be appointed to carry out the purposes of this chapter with respect to mental health and the twenty officers so authorized to be appointed to carry out subchapter IV of this chapter shall be reduced by the number of officers appointed under clause (A) and the number appointed under clause (B), respectively, of section 209 (b) (2) of this title, in effect prior to February 28, 1948. (July 1, 1944, ch. 373, title XI, § 1111, formerly title VII, § 711, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, and renumbered title VIII, § 811, July 30, 1956, ch. 779, § 3(b), 70 Stat. 721, title IX, § 911, Sept. 4, 1964, Pub. L. 85-581, § 4(b), 78 Stat. 919, Title X, § 1011, Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931, title XI, § 1111, Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506.)

CODIFICATION

Section not part of the Public Health Service Act, see section 4(a) of Pub. L. 88-581, set out as the Short Title note under section 201 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 211b. Promotion of commissioned officers.

(a) Temporary promotions prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, no promotion shall be made under section 211 of this title, prior to July 1, 1948. Until that date officers of the Regular Corps may receive temporary promotions to higher grades with the pay and allowances thereof pursuant to section 211 (a) (1) of this title, in force prior to February 28, 1948, notwithstanding the termination, prior to such date, of the war and of the national emergencies proclaimed by the President. Any officer holding, on June 30, 1948, an appointment pursuant to such section to a higher temporary grade shall continue in such grade until such appointment is terminated, as the President may direct.

(b) Service credit.

Effective as of February 28, 1948, each officer of the Regular Corps on such date, in addition to the credit he has under preexisting legislation for purposes of promotion, shall be credited with three years of service.

(c) Promotion based on years of service; effective date; examination; service credit.

Officers of the Regular Corps who have, or who on or before July 1, 1948, will have, the years of service prescribed in paragraph (2) of section 211 (d) of this title, for promotion to the senior assistant, full, or senior grade, shall be recommended to the President for such promotion, to be effective as of July 1, 1948, whether or not vacancies exist in such grade. Such promotions shall be made without examination, except that no promotions shall be made to the senior grade or any grade immediately below a restricted grade until the officer is found qualified for promotion pursuant to subsection (c) of section

211 of this title. No promotion shall be made pursuant to this paragraph to any grade in any professional category if such grade has been made a restricted grade pursuant to subsection (b) of section 211 of this title. For purposes of seniority an officer promoted under this paragraph shall be credited with the years of service in the grade to which promoted equal to the excess of his years of service on the date of promotion over the years of service required for promotion to such grade under paragraph (2) of section 211 (d) of this title.

Officers in the junior assistant grade in the Regular Corps who have, or who on or before July 1, 1948, will have four or more years of service in the junior assistant grade, shall be recommended to the President for promotion to the assistant grade, to be effective as of July 1, 1948, without examination and whether or not vacancies exist in such grade. For purposes of promotion and seniority in grade, an officer promoted under this paragraph shall be credited with the years of service equal to the excess of his years of service on the date of promotion over four years.

(d) Service for purpose of seniority.

For purposes of seniority, any officer of the Regular Corps of the Public Health Service on February 28, 1948, shall be considered as having had service in the grade which he holds on such date equal to the excess of the service credited to him for promotion purposes over the length of service required under section 211 (d) (2) of this title, for promotion to such grade.

(e) Term or tenure of office unaffected prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, the provisions of this section shall not, prior to July 1, 1948, affect the term or tenure of office (including any office held under temporary promotion) of any commissioned officer of the Service in office upon February 28, 1948. (Feb. 28, 1948, ch. 83, § 6 (b—f), 62 Stat. 45.)

CODIFICATION

Section is composed of subsecs. (b)—(f) of section 6 of act Feb. 28, 1948, and was not enacted as a part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 211c. Promotion credit for medical officers in the assistant grade.

Any medical officer of the Regular Corps of the Public Health Service who—

(1) (A) was appointed to the assistant grade in the Regular Corps and whose service in such Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment,

shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date. (July 1, 1944, ch. 373, title II, § 220, as added Apr. 30, 1956, ch. 223, § 3, 70 Stat. 121.)

REFERENCES IN TEXT

For "the effective date of this section", referred to in the text, see section 7 of act Apr. 30, 1956, which provided in part that this section shall become effective the first day of the month following the day of enactment, Apr. 30, 1956.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 212. Retirement of commissioned officers.

(a) Age; length of service; computation of retired pay; voluntary retirement of Surgeon General, Deputy Surgeon General and Assistant Surgeon General.

(1) A commissioned officer of the Service shall be retired on the first day of the month following the month in which he attains the age of sixty-four years.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) A commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of 2½ per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d) of this section) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such

officer's attendance at medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of Title 37 on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e) of this section), and who does not use, for purposes of a retirement annuity under the Civil Service Retirement Act, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(b) Basic pay of highest temporary grade.

For purposes of subsection (a) of this section, the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) Recall to active duty.

A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a) of this section, be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) Active service.

The term "active service," as used in subsection (a) of this section, includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.

(e) Crediting of part of year of active service.

For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 211(g)(3) of this title or paragraph (4) of subsection (a) of this section, a part of a year of active service of six months or more shall be counted as a whole year and a part of a year of active service which is less than six months shall be disregarded.

(f) Retirement or separation for physical disability.

For purposes of retirement or separation for physical disability under chapter 61 of Title 10, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service. (July 1, 1944, ch. 373, title II, § 211, 58 Stat. 688; Feb. 28, 1948, ch. 83, § 7, 62 Stat. 46; Oct. 12, 1949, ch. 681, title V, § 521(d), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 5 (a)—(c), 70 Stat. 117; Aug. 10, 1956, ch. 1041, § 5, 70A Stat. 620; Apr. 8, 1960, Pub. L. 86-415, § 4, 74 Stat. 33; May 14, 1970, Pub. L. 91-253, § 1, 84 Stat. 216.)

REFERENCES IN TEXT

The Civil Service Retirement Act, referred to in subsec. (a)(4), is now covered by chapter 83 of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a)(4). Pub. L. 91-253 inserted "plus" after the semicolon at the end of cl. (ii), and added cl. (iii).

1960—Pub. L. 86-415 amended section generally, and among other changes, authorized the retirement of commissioned officers who have had less than 30 years of active service any time after the completion of 20 years of active service, permitted persons who have served as Deputy Surgeons General or Assistant Surgeons General for four or more years and who have had at least 25 years of active service to retire voluntarily at any time, provided for the recall to active duty of officers of the Reserve Corps entitled to retired pay under subsection (a) of this section during such times as the Corps constitutes a branch of the land or naval forces of the United States, authorized credit, for retirement purposes, of active service in the uniformed services and limited to five years the crediting of active service with the Public Health Service other than as a commissioned officer, and established the methods for computation of retired pay for active duty officers retiring for age or length of service.

1956—Subsec. (a). Act Apr. 27, 1956, § 5(a), authorized the crediting of noncommissioned service for purposes of retirement.

Subsec. (b)(1). Act Apr. 27, 1956, § 5(b), authorized the crediting of noncommissioned service in the Service for purposes of retirement.

Subsec. (c). Act Apr. 27, 1956, § 5(c), permitted the result of retired officers of the Regular Corps without their

consent whenever the Regular Corps has military status, and authorized the recall of retired officers of the Regular or Reserve Corps with their consent at any time.

Subsec. (g). Act Aug. 10, 1956, provided for the crediting of service for the purposes of retirement or separation for physical disability under chapter 61 of Title 10, Armed Forces.

1949—Subsec. (a). Act Oct. 12, 1949, redesignated former subsec. (b) as (a), substituted "subsection (b)" for "subsection (c)" and repealed former subsec. (a) relating to retirement for disability or disease.

Subsec. (b). Act Oct. 12, 1949, redesignated former subsec. (c) as (b) and omitted reference to retirement for disability or disease. Former subsec. (b) redesignated (a).

Subsec. (c). Act Oct. 12, 1949, redesignated former subsec. (d) as (c) and omitted reference to recovery from a disability. Former subsec. (c) redesignated (b).

Subsecs. (d)—(f). Act Oct. 12, 1949, redesignated former subsecs. (e)—(g) as (d)—(f). Former subsec. (d) redesignated (c).

Subsec. (g). Act Oct. 12, 1949, redesignated former subsec. (h) as (g) and amended the subsection generally to relate to retirement or separation for physical disability.

1948—Subsec. (b). Act Feb. 28, 1948, added length of service for retirement purposes.

Subsec. (c)(2). Act Feb. 28, 1948, made subdivision applicable to the grade of Assistant Surgeon General.

Subsec. (d). Act Feb. 28, 1948, substituted "under the provisions of subsection (b) of this section" for "for age".

Subsecs. (g), (h). Act Feb. 28, 1948, added subsecs. (g) and (h).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91–253 provided that: "The amendments made by this Act [amending subsec. (a)(4) of this section] shall apply in the case of retired pay for any period after the month in which this Act is enacted [May 1970]."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8(b) of Pub. L. 86–415 provided that: "The amendment made by section 4 [to this section] shall become effective on the date of enactment of this Act [April 8, 1960] in the case of commissioned officers of the Regular Corps of the Public Health Service, and on July 1, 1960, in the case of commissioned officers of the Reserve Corps of the Public Health Service."

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, was effective Oct. 1, 1949.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

SAVINGS PROVISION

Subsections (c) and (d) of section 8 of Pub. L. 86–415 provided that:

"(c) An officer in the Regular Corps on active duty on the date of enactment of this Act [April 8, 1960] may be retired and have his retired pay computed under section 211 of the Public Health Service Act, as amended by this Act [this section], or, if he so elects, under such section as in effect prior to the date of enactment of this Act [April 8, 1960].

"(d) The limitation under subsection (f) of section 211 of the Public Health Service Act, as amended by this Act [subsec. (f) of this section], on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960."

COVERAGE UNDER CIVIL SERVICE RETIREMENT ACT

Creditable service for purposes of the Civil Service Retirement Act for certain commissioned officers of the Regular or Reserve Corps of the Public Health Service, see section 6 (a), (b) of Pub. L. 86–415, set out as a note under section 8332 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Restriction on retirement payment to officers selling to Government agencies, see section 801(c) of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 210, 212a of this title.

§ 212a. Same; certain retirements for disability.

An officer of the Reserve Corps of the Public Health Service who was separated from the Service or returned to inactive status by reason of a disability incurred in line of duty after December 6, 1941, and prior to July 1, 1944, and who would have been eligible for retirement by reason of such disability if section 212 of this title had been in effect on and after December 7, 1941, shall be considered as though he had been retired at the time of such separation or return to inactive service. Any such officer, and any other officer of the Reserve Corps retired for a disability which was incurred in line of duty after December 6, 1941, and prior to July 1, 1944, shall be entitled, for periods both before and after the date of the enactment of this section, to the same retired pay to which he would have been entitled if section 212 of this title had been in effect on and after December 7, 1941. (July 1, 1944, ch. 373, title XI, § 1112, formerly title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, and renumbered title VIII, § 812, July 30, 1956, ch. 779, § 3(b), 70 Stat. 721; title IX, § 912, Sept. 4, 1964, Pub. L. 88–581, § 4(b), 78 Stat. 919; title X, § 1012, Oct. 6, 1965, Pub. L. 89–239, § 3(b), 79 Stat. 931; title XI, § 1112, Dec. 24, 1970, Pub. L. 91–572, § 6(b), 84 Stat. 1506.)

CODIFICATION

Section not part of the Public Health Service Act, see section 4(a) of Pub. L. 88–581, set out as the Short Title note under section 201 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 212b. Repealed. Apr. 27, 1956, ch. 211, § 5 (d), 70 Stat. 117.

Section, act July 31, 1953, ch. 296, title II, § 201, 67 Stat. 254, authorized the recall of retired officers of the Service, and is now covered by section 212 (c) of this title.

§ 213. Military benefits; award of decorations; authority of Surgeon General; active service deemed to be active military service.

(a) Except as provided in subsection (b) of this section, commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers—

(1) in time of war;

(2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or

(3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title. (July 1, 1944, ch. 373, title II, § 212, 58 Stat. 689; July 15, 1954, ch. 507, § 14 (a), 68 Stat. 481; Aug. 1, 1956, ch. 837, title V, § 501 (b) (1), 70 Stat. 881.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (d), was act Apr. 25, 1951, ch. 39, Part I, 65 Stat. 33, and was repealed by section 502 (9) of act Aug. 1, 1956.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501. Section 205 (a) of act July 26, 1947 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1956—Act Aug. 1, 1956, amended section generally to extend all rights, privileges, immunities, and benefits provided for commissioned officers of the Army or their surviving beneficiaries to commissioned officers of the Service, with the exception of retired pay and uniform allowances, when performing duty under certain circumstances, and to provide that active service of commissioned officers shall be deemed to be active military service in the Armed Forces for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

1954—Subsec. (a) (1). Act July 15, 1954, struck out "burial payments in the event of death," following "limited to,".

EFFECTIVE DATE OF 1956 AMENDMENT; APPLICABILITY

Section 501 (b) (2) of act Aug. 1, 1956, provided that: "The amendment made by this subsection [to this section] (A) shall apply only with respect to service performed on or after July 4, 1952, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans' Readjustment Assistance Act of 1952 [act July 16, 1952, ch. 875, 66 Stat. 633], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [section 402(i) of this title], or under Veterans Regulation Numbered 9(a), for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

RECOMPUTATION OF SOCIAL SECURITY BENEFITS FOR OFFICERS ENTITLED TO OLD-AGE INSURANCE BENEFITS PRIOR TO JAN. 1, 1957, OR FOR SURVIVORS OF OFFICERS WHO DIED PRIOR TO JAN. 1, 1957

Section 501 (b) (3) of act Aug. 1, 1956, provided that: "In the case of any individual—

"(A) who performed active service (i) as a commissioned officer of the Public Health Service at any time during the period beginning July 4, 1952, and ending December 31, 1956, or (ii) as a commissioned officer of the Coast and Geodetic Survey at any time during the period beginning July 29, 1945, and ending December 31, 1956; and

"(B) (i) who became entitled to old-age insurance benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] prior to January 1, 1957, or

"(ii) who died prior to January 1, 1957, and whose widow, child, or parent is entitled for the month of January 1957, on the basis of his wages and self-employment income, to a monthly survivor's benefit under section 202 of such act [section 402 of this title]; and

"(C) any part of whose service described in subparagraph (A) was not included in the computation of his primary insurance amount under section 215 of such act [section 415 of this title] but would have been included in such computation if the amendment made by paragraph (1) of this subsection or paragraph (1) of subsection (d) had been effective prior to the date of such computation,

"the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by him or (if he dies without filing such an application) by any person entitled to monthly survivor's benefits under section 202 of such act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [sections 401—425 of this title] as in effect at the time of the last previous computation or recomputation of such

individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this paragraph shall be regarded as a recomputation under section 215 (f) of the Social Security Act [section 415 (f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application was filed, but in no case for any month before January 1957."

DISPOSITION OF REMAINS OF DECEASED PERSONNEL

Recovery, care, and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

BURIAL OF CERTAIN COMMISSIONED OFFICERS

Act Apr. 30, 1956, ch. 227, 70 Stat. 124, provided: "That burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I pursuant to the act of July 1, 1902 (32 Stat. 712, 713), as amended, and Executive Order Numbered 2571 dated April 3, 1917, and of the wife, widow, minor child and, in the discretion of the Secretary of the Army, unmarried adult child of these officers is authorized: *Provided,* That the remains of the wife, widow, and children may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a national cemetery if, upon death, the related officer is not buried in the same or an adjoining gravesite."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213a, 215 of this title.

§ 213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee.

(a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of Title 10:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1374, 1375 and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Annuities Based on Retired or Retainer Pay.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 213 of this title.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposits of Savings.

(b) The authority vested by Title 10 in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee. (July 1, 1944, ch. 373, title II, § 221, as added Aug. 10, 1956, ch. 1041, § 4, 70A Stat. 619, and amended Sept. 2, 1958, Pub. L. 85-861, § 4, 72 Stat. 1547; Aug. 14, 1959, Pub. L. 86-160, § 3, 73 Stat. 359; July 27, 1962, Pub. L. 87-555, § 2, 76 Stat. 244; Oct. 2, 1963, Pub. L. 88-132, § 5(k), 77 Stat. 214; Aug. 14, 1964, Pub. L. 88-431, § 1(d), 78 Stat. 440; Aug. 14, 1966, Pub. L. 89-538, § 3(b), 80 Stat. 348.)

CODIFICATION

Section 2 of Pub. L. 87-555 provided in part as follows: "Section 221 of the Public Health Service Act, as amended (42 U.S.C. 213a), is amended by adding the following new clause at the end thereof." Since the new clause is numbered "(9)" and subsection (a) contains clauses (1) through (8), the amendment was executed to subsection (a), which would appear to be the intent of Congress.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-538 added cl. (11).

1964—Subsec. (a). Pub. L. 88-431 added cl. (10).

1963—Subsec. (b). Pub. L. 88-132 included reference to the Secretary of Defense.

1962—Subsec. (a). Pub. L. 87-555 added clause (9).

1959—Subsec. (a). Pub. L. 86-160 added clause (1) and renumbered former clauses (1)—(7) as (2)—(8).

1958—Subsec. (a). Pub. L. 85-861 substituted "provisions" for "chapters" in the opening clause, eliminated former cl. (1) which related to chapter 55 of Title 10, renumbered former cl. (2)—(6) as (1)—(5), amended cl. (1), as renumbered, to make sections 1201—1203 of Title 10, inapplicable to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days, inserted a reference to section 1374 of Title 10 in cl. (2), as renumbered, eliminated "Care of the Dead" which followed "Benefits" in cl. (5), as renumbered, and added cl. (6).

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment of section by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

BACK PAYMENTS: VALIDATION; APPLICATION; LIMITATIONS; ACCOUNTABILITY OF DISBURSING OFFICERS; REGULATIONS

Transportation and travel allowances to escorts for dependents of members, see sections 4—7 of Pub. L. 86-160, set out as a note under section 1036 of Title 10, Armed Forces.

DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of section 4 of Pub. L. 85-861, which amended this section, see note set out under section 2771 of Title 10, Armed Forces.

RULES AND REGULATIONS; SAVINGS DEPOSIT BENEFITS

Regulations prescribed by the Secretary of Health, Education, and Welfare concerning savings deposit benefits for Public Health Service personnel to be prescribed jointly with regulations prescribed by the Secretaries concerned

under section 1035 of Title 10, Armed Forces, see section 3(c) of Pub. L. 89–538, set out as a note under section 1035 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210 of this title.

§ 214. Repealed. Pub. L. 87–649, § 14b, Sept. 7, 1962, 76 Stat. 499.

Section, acts July 1, 1944, ch. 373, title II, § 213, 58 Stat. 689; Apr. 27, 1956, ch. 211, § 2(a), 70 Stat. 116, authorized allowances for uniforms, and is now covered by section 415 of Title 37, Pay and Allowances of the Uniformed Services.

§ 214a. Repealed. Sept. 1, 1954, ch. 1211, § 5, 68 Stat. 1130.

Section, act July 31, 1953, ch. 296, title II, § 204, 67 Stat. 257, related to allowances for use of taxicabs, etc., around duty posts. See section 408 of Title 37, Pay and Allowances of the Uniformed Services.

§ 215. Detail of personnel to governmental departments, States and subdivisions, and certain institutions; payment of salaries and allowances.

(a) The Secretary is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriations and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Air Force, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or a political subdivision thereof in work related to the functions of the Service.

(c) The Surgeon General may detail personnel of the Service to nonprofit educational, research, or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Personnel detailed under subsections (b) and (c) of this section shall be paid from applicable appropriations of the Service, except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 213 of this title. (July 1, 1944, ch. 373, title II, § 214, 58 Stat. 690; July 3, 1946, ch. 538, § 6, 60 Stat. 423; Oct. 12, 1949, ch. 681, title V, § 521 (e), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Air Force was inserted on the authority of section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A (74)], July 22, 1949, which transferred certain functions, insofar as they pertain to the Air Force, which were not previously transferred to the Department of the Air Force and Secretary of the Air Force. Section 207 (a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 8011—8013 continued the military Department of the Air Force under the administrative supervision of a Secretary of the Air Force.

AMENDMENTS

1949—Subsec. (d). Act Oct. 14, 1949, substituted "the computation of basic pay" for "longevity pay".

1946—Subsec. (b). Act July 3, 1946, provided for the detail of personnel where a request comes from the State mental health authority.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, was made effective Oct. 1, 1949.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

TRANSFERS OF PERSONNEL OCCASIONED BY CREATION OF THE ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 91–604, § 15(b)(1)–(8)(A), Dec. 31, 1970, 84 Stat. 1710–1712, provided that:

"(1) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act [section 212 of this title] after his election but prior to his transfer pursuant to this paragraph and paragraph (2)) who, upon the day before the effective date of Reorganization Plan Numbered 3 of 1970 (hereinafter in this subsection referred to as the 'plan'), is serving as such officer (A) primarily in the performance of functions transferred by such plan to the Environmental Protection Agency or its Administrator (hereinafter in this subsection referred to as the 'Agency' and the 'Administrator,' respectively), may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or (B) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred

to as the 'Secretary') to be materially related to the functions so transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

"(2) An election pursuant to paragraph (1) shall be effective only if made in accordance with such procedures as may be prescribed by the Civil Service Commission (A) before the close of the 24th month after the effective date of the plan [Dec. 2, 1970], or (B) in the case of a commissioned officer who would be liable for training and service under the Military Selective Service Act of 1967 [section 451 et seq. of Title 50 App.] but for the operation of section 6(b)(3) thereof (50 U.S.C. App. 456(b)(3)), before (if it occurs later than the close of such 24th month) the close of the 90th day after the day upon which he has completed his 24th month of service as such officer.

"(3)(A) Except as provided in subparagraph (B), any commissioned officer of the Public Health Service who, pursuant to paragraph (1) and (2), elects to transfer to a position in the Agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this subsection referred to as the 'transferring officer'), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed as of the day preceding the date of such election:

"(i) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

"(ii) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

"(iii) an amount equal to the biweekly average cost of the coverages designated 'high option, self and family' under the Government-wide Federal employee health benefits programs plans, multiplied by twenty-six; and

"(iv) an amount equal to 7 per centum of the sum of the amounts determined under clauses (i) through (iii), inclusive.

"(B) A transferring officer shall in no event receive, pursuant to subparagraph (A), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to paragraphs (1) and (2).

"(4)(A) A transferring officer shall be credited, on the day of his transfer pursuant to his election under paragraphs (1) and (2), with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title].

"(B) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on such day of transfer, be transferred to his credit in the Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (i) 240 hours, and (ii) the number of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner described by subsection (c) of section 6304 of title 25, United States Code.

"(5) A transferring officer who is required to change his official station as a result of his transfer under this subsection shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

"(6) Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees' Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Agency regardless of age and insurability.

"(7)(A) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (i) his active service as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title], or (ii) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service, to receive retired pay pursuant to section 211(a)(4)(B) of such Act [section 212(a)(4)(B) of this title]; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act [section 401 et seq. of this title] based on service as such a commissioned officer performed after 1956, but the individual (or his survivors) may irrevocably elect to waive benefit credit for the service under one such law to secure credit under the other.

"(B) A transferring officer on whose behalf a deposit is required to be made by subparagraph (C) and who, after transfer to a competitive position in the Agency under paragraphs (1) and (2), is separated from Federal service or transfers to a position not covered by subchapter III of chapter 83 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under paragraphs (1) and (2), to a position covered by another Government staff requirement system under which credit is allowable for service with respect to which a deposit is required under subparagraph (C), no credit shall be allowed under such subchapter III with respect to such service.

"(C) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the years of service credited to him for purposes of his retirement under subparagraph (A), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in paragraph (3)(A) which were received by, or accrued to the benefit of, such officer during the years so credited. The deposits which the Secretary is required to make under this subparagraph with respect to any transferring officer shall be made within two years after the date of his transfer as provided in paragraphs (1) and (2), and the amounts due under this subparagraph shall include interest computed from the period of service credited to the date of payment in accordance with section 8334(e) of title 5, United States Code.

"(8)(A) A commissioned officer of the Public Health Service who, upon the day before the effective date of the plan, is on active service therewith primarily assigned to the performance of functions described in paragraph (1)(A), shall, while he remains in active service, as defined by section 211(d) of the Public Health Service Act [section 212(d) of this title], be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 246, 1857g of this title.

§ 216. Regulations for Service by President and Surgeon General.

(a) The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission,

titles, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.

(b) The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) No regulation relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine. (July 1, 1944, ch. 373, title II, § 215, 58 Stat. 690; Oct. 12, 1949, ch. 681, title V, § 521 (f), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1949—Subsec. (b). Act Oct. 12, 1949, deleted references to travel and transportation of household goods and effects.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, was made effective Oct. 1, 1949.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 217. Use of Service in time of war or emergency.

In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constitute a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice, and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief. (July 1, 1944, ch. 373, title II, § 216, 58 Stat. 690; Apr. 27, 1956, ch. 211, § 1, 70 Stat. 116.)

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in the text, is classified to chapter 47 of Title 10, Armed Forces.

AMENDMENTS

1956—Act Apr. 27, 1956, empowered the President to declare the commissioned corps of the Service to be a military service in time of emergency involving the national defense, and substituted "the Uniform Code of Military Justice" for "the Articles of War and to the Articles for the Government of the Navy".

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

EXECUTIVE ORDERS

Ex. Ord. 9575, June 28, 1945, 10 F.R. 7895, was superseded by Ex. Ord. No. 10349, Apr. 28, 1952, 17 F.R. 3769.

Ex. Ord. No. 10349, April 28, 1952, 17 F. R. 3769, which superseded Ex. Ord. No. 9575, June 28, 1945, 10 F. R. 7895, subjected the Commissioned Corps of the Public Health Service to the provisions of the Uniform Code of Military Justice, until June 1, 1952.

Ex. Ord. No. 10349 was amended by Ex. Ord. 10356, June 2, 1952, 17 F. R. 4967, which extended from June 1, 1952 to June 15, 1952 the period during which the Commissioned Corps of the Public Health Service is subject to the provisions of the Uniform Code of Military Justice.

Ex. Ord. No. 10356, June 2, 1952, 17 F. R. 4967, was amended by Ex. Ord. 10362, June 14, 1952, 17 F. R. 5413, which extended from June 15, 1952 to June 30, 1952 the period during which the Commissioned Corps of the Public Health Service is subject to the provisions of the Uniform Code of Military Justice.

Ex. Ord. No. 10362, June 14, 1952, 17 F. R. 5413, was amended by Ex. Ord. 10367, June 30, 1952, 17 F. R. 5929, which extended from June 30, 1952 to July 3, 1952 the period during which the Commissioned Corps of the Public Health Service is subject to the provisions of the Uniform Code of Military Justice.

CROSS REFERENCES

Personnel of Public Health Service serving with armed forces as subject to Uniform Code of Military Justice, see section 802 (8) of Title 10, Armed Forces.

§ 217a. Advisory councils or committees.

(a) Appointment; purpose.

The Secretary may, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions.

(b) Compensation and allowances of members not full-time employees of the United States.

Members of any advisory council or committee appointed under this section who are not regular full-time employees of the United States, while attending meetings or conferences of such council or committee or otherwise engaged on business of such council or committee receive compensation and allowances as provided in section 210(c) of this title for members of national advisory councils established under this chapter.

(c) Transfer of functions.

Upon appointment of any such council or committee, the Surgeon General, with the approval of the Secretary may transfer such of the functions of the National Advisory Health Council relating to grants-in-aid for research or training projects or programs in the areas or fields with which such council or committee is concerned as he determines to be appropriate. (July 1, 1944, ch. 373, title II, § 222, as added Oct. 17, 1962, Pub. L. 87–838, § 3, 76 Stat. 1073, and amended Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(a)(3), (c), 84 Stat. 1310, 1311.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is classified to section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 601(c)(1), substituted provisions authorizing the Secretary to appoint advisory councils or committees without regard to specified provisions governing appointments in the competitive service and relating to classification and General Schedule pay rates, for provisions authorizing the Surgeon General to appoint advisory committees without regard to the civil service laws and subject to the Secretary's approval in such cases as he prescribed.

Subsec. (b). Pub. L. 91–515, § 601(a)(3), added "council or" preceding "committee" wherever appearing therein.

Subsec. (c). Pub. L. 91–515, § 601(a)(3), (c)(2), added "council or" preceding "committee" wherever appearing therein, and "or programs" following "projects".

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 217b. Volunteer services.

Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health, Education, and Welfare designated by him, for use in the operation of any health care facility or in the provision of health care. (July 1, 1944, ch. 373, title II, § 223, as added Dec. 5, 1967, Pub. L. 90–174, § 6, 81 Stat. 539.)

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

§ 218. National Advisory Councils; composition; qualifications; appointment and tenure; duties.

(a) The National Advisory Health Council, the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of cancer, psychiatric disorders, alcohol abuse and alcoholism, heart diseases, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of the members (other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism) first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment; and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after December 31, 1970, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils or committees established under this chapter on cancer, mental health, alcohol abuse and alcoholism, heart, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with

matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommend to the Surgeon General, for prosecution under this chapter, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Surgeon General, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Surgeon General, for acceptance pursuant to section 219 of this title, conditional gifts for work in the field of mental health; and the Surgeon General shall recommend acceptance of any such gifts only after consultation with the Council.

(d) The National Advisory Council on Alcohol Abuse and Alcoholism shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Secretary in the field of alcohol abuse and alcoholism. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 4591 of this title conditional gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council (July 1, 1944, ch. 373, title II, § 217, 58 Stat. 691; July 3, 1946, ch. 538, § 5 (b—d), 60 Stat. 422; June 16, 1948, ch. 481, §§ 4 (a—c), 6 (b), 62 Stat. 467, 469; June 24, 1948, ch. 621, § 4 (a—c), 62 Stat. 600; Aug. 15, 1950, ch. 714, § 3 (a—d), 64 Stat. 446; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(1), 84 Stat. 1310; Dec. 31, 1970, Pub. L. 91-616, title IV, § 401, 84 Stat. 1853.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-616, § 401(a), made subsection applicable to the National Advisory Council on Alcohol Abuse and Alcoholism, and added alcohol abuse and alcoholism to the enumeration of diseases concerning which the members of such Council must be skilled, and prescribed the manner in which the terms of the members of the Council would expire.

Subsec. (b). Pub. L. 91-616, § 401(b), added reference to the National Advisory Council on Alcohol Abuse and Alcoholism authorizing the Surgeon General to utilize the services of the members of such Council for additional periods.

Pub. L. 91-515 added "or committees" following "councils".

Subsec. (d). Pub. L. 91-616, § 401(c), added subsec. (d).

1950—Act Aug. 15, 1950, § 3(d), amended catchline to reflect addition of new advisory councils.

Subsec. (a). Act Aug. 15, 1950, § 3(a), applied provisions to all of the advisory councils with regard to composition, qualifications, and appointment and tenure of members.

Subsec. (b). Act Aug. 15, 1950, § 3(b), made subsection also applicable to new advisory councils.

Subsec. (c). Act Aug. 15, 1950, § 3(c), redesignated former subsec. (e) as (c), and repealed former subsec. (c).

Subsecs. (d), (f), (g). Act. Aug. 15, 1950, § 3(c), repealed subsecs. (d), (f), and (g).

1948—Acts June 16, 1948, § 4(c), and June 24, 1948, § 4(c), included in the catchline the National Advisory Heart and Dental Research Councils, respectively.

Subsec. (a). Act June 16, 1948, § 6(b), substituted "National Institutes of Health" for "National Institute of Health" in second sentence.

Subsec. (b). Acts June 16, 1948, § 4(b), and June 24, 1948, § 4(b), made subsection applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (f). Act June 16, 1948, § 4(a), added subsec. (f), which established the National Advisory Heart Council.

Subsec. (g). Act June 24, 1948, § 4(a), added subsec. (g), which established the National Advisory Dental Research Council.

1946—Act July 3, 1946, inserted "Mental Health" in the catchline.

Subsec. (b). Act July 3, 1946, inserted "or of the National Advisory Mental Health Council".

Subsecs. (d), (e). Act July 3, 1946, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1950 AMENDMENT

Subsecs. (a) and (c) of section 3 of act Aug. 15, 1950, provided in part that the amendment of this section and the repeal of former subsecs. (c, d, f, g) shall be effective Oct. 1, 1950.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan

No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

AIR FORCE

For transfer of certain membership functions, insofar as they pertain to the Air Force, which functions were not previously transferred from the Secretary of the Army to the Secretary of the Air Force and from the Department of the Army to the Department of the Air Force, see Secretary of Defense Transfer Order No. 40 [App. C (7)], July 22, 1949.

EXPIRATION OF TERMS OF OFFICE ON SEPT. 30, 1950

Section 3 (c) of act Aug. 15, 1950, provided in part that terms of office as members of national advisory councils pursuant to this section subsisting on September 30, 1950, shall expire at the close of business on such day.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289, 292b, 2683 of this title.

§ 218a. Training of officers; availability of appropriations for pay and allowances, tuition, fees, and expenses; reimbursement by officer upon voluntary separation.

(a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty while attending any Federal or non-Federal educational institution or training program and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees are paid pursuant to subsection (a) of this section while attending an educational institution or training program for a period in excess of thirty days shall be obligated to reimburse the Service for such tuition and fees if thereafter he voluntarily leaves the Service within whichever of the following periods of active service is the greater: (1) six months, or (2) twice the period of such attendance but in no event more than two years. Such subsequent period of service shall commence upon the cessation of such attendance and of any further continuous period of training duty for which no tuition and fees are paid by the Service and which is part of the officer's prescribed formal training program, whether such further training is at a Service facility or otherwise. The Surgeon General may waive, in whole or in part, any reimbursement which may be required by this subsection upon a determination that such reimbursement would be inequitable or would not be in the public interest. (July 1, 1944, ch. 373, title II, § 218, as added Feb. 28, 1948, ch. 83, § 8, 62 Stat. 47, and amended Apr. 27, 1956, ch. 211, § 6, 70 Stat. 117.)

AMENDMENTS

1956—Subsec. (a). Act Apr. 27, 1956, § 6(a), authorized the training of all officers of the Service, and substituted "any Federal or non-Federal educational institution or training program" for "any educational institution".

Subsec. (b). Act Apr. 27, 1956, § 6(b), required reimbursement of tuition and fees by officers who receive training in excess of 30 days and who voluntarily leave the Service within a period of time which is equal to twice the period of such training, with a minimum period of six months of service, and a maximum period of two years, and permitted the Surgeon General to waive any reimbursement.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, January 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 219. Acceptance and disposition of gifts.

(a) The Secretary of Health, Education, and Welfare is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary of Health, Education, and Welfare whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) The Secretary of Health, Education, and Welfare, shall hold any real property or any tangible

personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided,* That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary of Health, Education, and Welfare, for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary of Health, Education, and Welfare, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby. (July 1, 1944, ch. 373, title V, § 501, 58 Stat. 709; July 3, 1946, ch. 538, § 10, 60 Stat. 425; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 15, 1968, Pub. L. 90-574, title V, § 503(b), 82 Stat. 1012.)

AMENDMENTS

1968—Subsec. (e). Pub. L. 90-574 struck out subsec. (e), which provided for the acknowledgment of donations of $50,000 or more in aid of research by the establishment of suitable memorials within the National Institutes of Health, and the National Institute of Mental Health.

1948—Subsec. (e). Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

1946—Subsec. (e). Act July 3, 1946, made provisions applicable to the National Institute of Mental Health.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

CROSS REFERENCES

National Institutes of Health gift fund and conditional gift fund to be classified on books of Treasury as trust funds, see section 725s (a) (33, 34) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 278, 283, 284, 287b, 287c, 288c of this title.

§ 220. Use of immigration station hospitals.

The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 249 (a) of this title. (July 1, 1944, ch. 373, title V, § 502, 58 Stat. 710.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees. The Immigration and Naturalization Service, referred to in this section, is a bureau in the Department of Justice.

§ 221. Disposition of money collected for care of patients.

Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid. (July 1, 1944, ch. 373, title V, § 503, 58 Stat. 710.)

§ 222. Care of Service patients at Saint Elizabeths Hospital.

Insane patients entitled to treatment by the Service shall be admitted, upon order of the Secretary, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service incident to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service. (July 1, 1944, ch. 373, title V, § 504, 58 Stat. 710;

June 25, 1948, ch. 654, § 6, 62 Stat. 1018; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Act June 25, 1948, permitted the payment of court costs and other expenses of the Service incident to commitment of mental patients.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

SAINT ELIZABETHS HOSPITAL PATIENTS IN SERVICE HOSPITALS

Section 1108 of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; July 30, 1956, ch. 779, § 3(b), 70 Stat. 720; Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506, provided: "Insane patients entitled to treatment in Saint Elizabeths Hospital who may heretofore or hereafter, during the continuance of the present war [World War II], or during the period of six months thereafter, have been admitted to hospitals of the Service, may continue to be cared for and treated in such hospitals notwithstanding the termination of such period."

§ 223. Settlement of claims.

The Secretary may consider, ascertain, adjust and determine any claim which shall accrue, on account of damages occasioned by collisions or incident to the operation of vessels of the Service, and for which damages such vessels are found by him to be responsible. To be considered for settlement under this section, claims must be presented to the Secretary within one year of their accrual. The amount ascertained and determined to be due any claimant, not exceeding $3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made therefor by Congress, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed. Acceptance by any claimant of the amount determined to be due under this section shall be deemed to be in full and final settlement of such claim against the Government of the United States. (July 1, 1944, ch. 373, title V, § 505, 58 Stat. 710; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 224. Transportation of remains of officers.

Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for carrying out the provisions of this chapter shall also be available for the payment of such expenses relating to the recovery, care and disposition of the remains of personnel or their dependents as may be authorized under other provisions of law. (July 1, 1944, ch. 373, title V, § 506, 58 Stat. 710; July 15, 1954, ch. 507, § 14 (b), 68 Stat. 481.)

AMENDMENTS

1954—Act July 15, 1954, added sentence relating to availability of appropriations for paying expenses relating to the recovery, care, and disposition of the remains of personnel or their dependents.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DISPOSITION OF REMAINS OF DECEASED PERSONNEL

Recovery, care and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

§ 225. Repealed. July 12, 1955, ch. 328, § 5 (4), 69 Stat. 296.

Section, acts July 1, 1944, ch. 373, title V, § 507, 58 Stat. 711; Feb. 25, 1946, ch. 35, § 2, 60 Stat. 30, provided for the settlement of accounts of deceased officers. See section 2771 of Title 10, Armed Forces, and section 714 of Title 32, National Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section by act July 12, 1955, effective as of the effective date of the payment provisions of former section 361—365 of Title 37, Pay and Allowances, except with respect to the deaths of members, see section 5 of act July 12, 1955.

§ 225a. Availability of appropriations for grants to Service hospitals, Bureau of Prisons, and Saint Elizabeths Hospital.

Appropriations to the Public Health Service available under this chapter for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities shall also be available on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, except that grants

to such Federal institutions may be funded at 100 per centum of the costs. (July 1, 1944, ch. 373, title V, § 507, as added June 24, 1967, Pub. L. 90-31, § 5, 81 Stat. 79, and amended Oct. 27, 1970, Pub. L. 91-513, title I, § 3(c), 84 Stat. 1241.)

REFERENCES IN TEXT

The Community Mental Health Centers Act, referred to in text, is title II of Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 290, which is classified to section 2681 et seq. of this title.

CODIFICATION

A former section 507 of act July 1, 1944, ch. 373, title V, providing for the settlement of accounts of deceased officers, was classified to section 225 of this title.

AMENDMENTS

1970—Pub. L. 91-513 inserted references to appropriations available for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities, and added provision that grants to the specified Federal institutions may be funded at 100 per centum of the costs.

EFFECTIVE DATE

Section 5 of Pub. L. 90-31 provided in part that this section shall be effective July 1, 1968.

§ 226. Transfer of funds.

For the purpose of any reorganization under section 203 of this title, the Secretary, with the approval of the Director of the Bureau of the Budget, is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions. (July 1, 1944, ch. 373, title V, § 508, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 227. Availability of appropriations.

Appropriations for carrying out the purposes of this chapter shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health. (July 1, 1944, ch. 373, title V, § 509, 58 Stat. 711; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469; June 25, 1948, ch. 654, § 7, 62 Stat. 1018; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1948—Act June 25, 1948, amended section generally to make it apply to all appropriations to carry out the purposes of the Service instead of merely to appropriations to carry out the research functions of the Service.

Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of the 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 227a. Availability of appropriations for research grants to Service hospitals, Bureau of Prisons, and Saint Elizabeths Hospital.

CODIFICATION

Section, Pub. L. 90-132, title II, § 204, Nov. 8, 1967, 81 Stat. 407, providing that appropriations to the Public Health Service be available for research grants to hospitals of the Service, the Bureau of Prisons, Department of Justice, and to Saint Elizabeths Hospital, on the same terms and conditions as grants to non-Federal institutions, was enacted as part of the Department of Health, Education, and Welfare Appropriation Act, 1968, and not as part of the Public Health Service Act, which comprises this chapter, and is now covered by section 225a of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior Appropriation Acts:

1966—Pub. L. 89-787, title II, § 204, Nov. 7, 1966, 80 Stat. 1400.

1965—Pub. L. 89-156, title II, § 204, Aug. 31, 1965, 79 Stat. 609.

1964—Pub. L. 88-605, title II, § 204, Sept. 19, 1964, 78 Stat. 979.

1963—Pub. L. 88-136, title II, § 204, Oct. 11, 1963, 77 Stat. 244.

1962—Pub. L. 87-582, title II, § 204, Aug. 14, 1962, 76 Stat. 379.

1961—Pub. L. 87-290, title II, § 206, Sept. 22, 1961, 75 Stat. 608.

1960—Pub. L. 86-703, title II, § 207, Sept. 2, 1960, 74 Stat. 773.

1959—Pub. L. 86-158, title II, § 210, Aug. 14, 1959, 73 Stat. 355.

§ 228. Wearing of uniforms.

Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof,

shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service. (July 1, 1944, ch. 373, title V, § 510, 58 Stat. 711; June 25, 1948, ch. 645, § 5, 62 Stat. 859.)

AMENDMENTS

1948—Act June 25, 1948, omitted penal provisions which are now covered by section 702 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of Act June 25, 1948, provided that the amendment of this section shall be effective Sept. 1, 1948.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

§ 229. Annual report of Surgeon General.

The Surgeon General shall transmit to the Secretary, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this chapter, including a detailed statement of receipts and disbursements. (July 1, 1944, ch. 373, title V, § 511, 58 Stat. 711; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 229a. Memorials and other acknowledgments for contributions to the health of the nation.

The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health. (July 1, 1944, ch. 373, title V, § 512, as added Oct. 15, 1968, Pub. L. 90–574, title V, § 503(a), 82 Stat. 1012.)

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, in the amendments made by Pub. L. 90–574, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 229b. Evaluation of programs.

Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this chapter, the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress), or the Act of August 16, 1957 (Public Law 85–151), for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this chapter or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly. (July 1, 1944, ch. 373, title V, § 513, as added June 30, 1970, Pub. L. 91–296, title IV, § 401(a), 84 Stat. 351.)

REFERENCES IN TEXT

The Mental Retardation Facilities Construction Act, referred to in text, is title I of Pub. L. 88–164, Oct. 31, 1963, 77 Stat. 282, which is classified to sections 295 et seq., 2661 et seq., and 2671 et seq. of this title.

The Community Mental Health Centers Act, referred to in text, is title II of Pub. L. 88–164, Oct. 31, 1963, 77 Stat. 290, which is classified to section 2681 et seq. of this title.

The act of Aug. 5, 1954 (Public Law 568, Eighty-third Congress), referred to in text, is classified to section 2001 et seq. of this title.

The act of Aug. 16, 1957 (Public Law 85–151), referred to in text, is classified to section 2005 et seq. of this title.

§ 230. Repealed. Apr. 27, 1956, ch. 211, § 5 (e), 70 Stat. 117.

Section, act July 1, 1944, ch. 373, title VII, § 706, 58 Stat. 713, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, and amended by acts Feb. 28, 1948, ch. 83, § 9 (a), 62 Stat. 47; Oct. 12, 1949, ch. 681, title V, § 521 (g), 63 Stat. 835, provided for the computation of retired pay, and is now covered by section 212 of this title.

§ 231. Service and supply fund; uses; reimbursement.

A service and supply fund of $250,000 is established, without fiscal year limitation, for the payment of salaries, travel, and other expenses necessary to the maintenance and operation of (1) a supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, materials, equipment, and blank forms, for which stocks may be maintained to meet, in whole or in part, requirements of the Public Health Service and requisitions of other Government Offices, and (2) such other services as the Surgeon General, with the approval of the Secretary of Health, Education, and Welfare, determines may be performed more advantageously as central services; said fund to be reimbursed from applicable appropriations or funds available when services are performed or stock furnished on a basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation), and other expenses. (July 3, 1945, ch. 263, title II, 59 Stat. 370; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Section is from the Federal Security Appropriation Act, 1946, act July 3, 1945, and was not enacted as part of the Public Health Service Act of 1944, which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 232. National Institute of Mental Health; appropriation; construction; location.

There is authorized to be appropriated a sum not to exceed $7,500,000 for the erection and equipment, for the use of the Public Health Service in carrying out the provisions of the National Mental Health Act, of suitable and adequate hospital buildings and facilities, including necessary living quarters for personnel, and of suitable and adequate laboratory buildings and facilities, and such buildings and facilities shall be known as the National Institute of Mental Health. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities, and to erect thereon, furnish, and equip such buildings and facilities. The amount authorized to be appropriated in this section shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work: *Provided,* That the Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction. (July 3, 1946, ch. 538, § 11, 60 Stat. 425; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

REFERENCES IN TEXT

The National Mental Health Act, referred to in text, is classified to sections 201, 209, 210, 215, 218, 219, 232, 241, 242a, 244, and 246 of this title.

CODIFICATION

Section was enacted as a part of the National Mental Health Act and not as a part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

§ 233. Civil actions or proceedings against commissioned officers or employees.

(a) Exclusiveness of remedy.

The remedy against the United States provided by sections 1346(b) and 2672 of Title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of Title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

(b) Attorney General to defend action or proceeding; delivery of process to designated official; furnishing of copies of the pleading and process to United States attorney, Attorney General, and Secretary.

The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Removal to United States district court; procedure; proceeding upon removal deemed a tort action against United States; hearing on motion to remand to determine availability of remedy against United States; remand to State court or dismissal.

Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of Title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United

States, the case shall be remanded to the State Court: *Provided,* That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) Compromise or settlement of claim by Attorney General.

The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of Title 28 and with the same effect.

(e) Assault or battery.

For purposes of this section, the provisions of section 2680(h) of Title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

(f) Authority of Secretary or designee to hold harmless or provide liability insurance for assigned or detailed employees.

The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of Title 28, for such damage or injury. (July 1, 1944, ch. 373, title II, § 223, as added Dec. 31, 1970, Pub. L. 91–623, § 4, 84 Stat. 1870.)

SUBCHAPTER II.—GENERAL POWERS AND DUTIES

PART A.—RESEARCH AND INVESTIGATIONS

§ 241. Research and investigations generally.

The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research or research training projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research and research training programs: *Provided,* That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may determine, of the amounts provided for grants for research or research training projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research and research training program grants-in-aid for such fiscal year;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(g) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(h) Enter into contracts during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections 2353 and 2354 of Title 10, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(i) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental

Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section. (July 1, 1944, ch. 373, title III, § 301, 58 Stat. 691; July 3, 1946, ch. 538, § 7 (a, b), 60 Stat. 423; June 16, 1948, ch. 481, § 4 (e, f), 62 Stat. 467; June 24, 1948, ch. 621, § 4 (e, f), 62 Stat. 601; June 25, 1948, ch. 654, § 1, 62 Stat. 1017; July 3, 1956, ch. 510, § 4, 70 Stat. 490; Sept. 15, 1960, Pub. L. 86-798, 74 Stat. 1053; Oct. 17, 1962, Pub. L. 87-838, § 2, 76 Stat. 1073; Aug. 9, 1965, Pub. L. 89-115, § 3, 79 Stat. 448; Dec. 5, 1967, Pub. L. 90-174, § 9, 81 Stat. 540; Oct. 30, 1970, Pub. L. 91-515, title II, § 292, 84 Stat. 1308.)

AMENDMENTS

1970—Subsec. (h). Pub. L. 91-515 substituted "eight succeeding fiscal years" for "five succeeding fiscal years."

1967—Subsec. (h). Pub. L. 90-174 substituted "five" for "two" succeeding fiscal years.

1965—Subsec. (h). Pub. L. 89-115 added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 89-115 redesignated former subsec. (h) as (i).

1962—Subsec (d). Pub. L. 87-838 inserted "or research training" in two places.

1960—Subsec. (d). Pub. L. 86-798 authorized the Surgeon General, upon recommendation of the National Advisory Health Council, to make grants to public or nonprofit universities, hospitals, laboratories, and other institutions to support research and research training programs, and to make available for such research and research training programs, up to 15 per centum of amounts provided for research grants through the appropriations for the National Institutes of Health.

1956—Subsec. (g). Act July 3, 1956, added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Act July 3, 1956, redesignated former subsec. (g) as (h).

1948—Subsec. (d). Acts June 16, 1948, § 4(e), and June 24, 1948, § 4(e), made provisions applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (d). Act June 25, 1948, continued in basic legislation the authority to purchase penicillin and other antibiotic compounds for use in research projects.

Subsec. (g). Acts June 16, 1948, § 4(f); June 24, 1948, § 4(f), made provisions applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

1946—Subsec. (d). Act July 3, 1946, made the National Advisory Mental Health Council the body to make recommendations to the Surgeon General on awarding of grants-in-aid for research projects with respect to mental health.

Subsec. (g). Act July 3, 1946, gave National Advisory Health Council the right to make recommendations to carry out purposes of this section.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242, 242a, 263, 282, 283, 287a, 287b, 288a, 288b, 289a, 289c, 289g, 289k, 1857i of this title.

§ 242. Studies and investigations on use and misuse of narcotic drugs and other drugs; annual report to the Attorney General; cooperation with States.

(a) In carrying out the purposes of section 241 of this title with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act and Controlled Substances Import and Export Act, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts. (July 1, 1944, ch. 373, title III, § 302, 58 Stat. 692; Oct. 27, 1970, Pub. L. 91-513, title II, § 701(j), 84 Stat. 1282.)

REFERENCES IN TEXT

The Controlled Substances Act and the Controlled Substances Import and Export Act, referred to in subsec. (a), are, respectively, titles II and III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, 1285, which are classified to sections 801 et seq. and 951 et seq. of Title 21, Food and Drugs.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-513 added references to drug dependency, drugs other than narcotic drugs, and substances subject to control under the Controlled Substances Act and the Controlled Substances Import and Export Act, substituted the first day of April of each year for the first day of September of each year as the date by which the study results must be submitted, substituted the Attorney General for the Secretary of the Treasury as the officer to whom the report is to be submitted, and struck out references to the Narcotic Drugs Import and Export Act.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91-513, set out as a note under section 801 of Title 21, Food and Drugs.

SAVINGS PROVISION

Amendment by Pub. L. 91-513 not to affect or abate any prosecutions for violation of law or any civil seizures or forfeitures and injunctive proceedings commenced prior

to the effective date of such amendment, and all administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on Oct. 27, 1970, to be continued and brought to final determination in accord with laws and regulations in effect prior to Oct. 27, 1970, see section 702 of Pub. L. 91–513, set out as a note under section 321 of Title 21, Food and Drugs.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 242a. Mental health; training and instruction; research projects; protection of identity of subjects of drug research; grants.

(a) In carrying out the purposes of section 241 of this title with respect to mental health, the Surgeon General is authorized—

(1) to provide training and instruction and to establish and maintain traineeships, in accordance with the provisions of section 289c (a) of this title;

(2) to make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operation and administration of such institutions.

The Secretary may authorize persons engaged in research on the use and effect of drugs to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

(b) Grants under paragraph (2) of subsection (a) of this section may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary. (July 1, 1944, ch. 373, title III, § 303, as added July 3, 1946, ch. 538, § 7 (c), 60 Stat. 423, and amended Aug. 2, 1956, ch. 871, title V, § 501, 70 Stat. 929; Oct. 27, 1970, Pub. L. 91–513, title I, § 3(a), 84 Stat. 1241.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513 added provisions authorizing the withholding of information concerning the identity of persons who are the subjects of research on the use and effect of drugs.

1956—Subsec. (a). Act Aug. 2, 1956, substituted provisions of par. (1) relating to traineeships in accordance with section 289c(a) of this title and par. (2) relating to grants for research and improved operation of mental institutions for provisions relating to admission of study patients, including patients from St. Elizabeths Hospital, to the National Institute of Mental Health.

Subsec. (b). Act Aug. 2, 1956, substituted provisions relating to recommendation of grants by Council and payment by Surgeon General for provisions relating to mental health training.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 503 of act Aug. 2, 1956, provided that amendment to this section and section 242b of this title shall become effective on July 1, 1956.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 21 section 850.

§ 242b. Research and demonstrations relating to health facilities and services.

(a) Grants and contracts for projects for research, experiments, or demonstrations and related training; cost limitation; wage rates, labor standards, and other conditions; payments.

(1) The Secretary is authorized—

(A) to make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research, experiments, or demonstrations (and related training), and

(B) to make contracts with public or private agencies, institutions, or organizations for the conduct of research, experiments, or demonstrations (and related training),

relating to the development, utilization, quality, organization, and financing of services, facilities, and resources of hospitals, facilities for long-term care, or other medical facilities (including, for purposes of this section, facilities for the mentally retarded, as defined in the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963), agencies, institutions, or organizations or to development of new methods or improvement of existing methods of organization, delivery, or financing of health services, including, among others—

(i) projects for the construction of units of hospitals, facilities for longterm care, or other medical facilities which involve experimental architectural designs or functional layout or use of new materials or new methods of construction, the efficiency of which can be tested and evaluated, or which involve the demonstration of such efficiency, particularly projects which also involve research, experiments, or demonstrations relating to delivery of health services, and

(ii) projects for development and testing of new equipment and systems, including automated equipment, and other new technology systems or concepts for the delivery of health services, and

(iii) projects for research and demonstration in new careers in health manpower and new ways of educating and utilizing health manpower, and

(iv) projects for research, experiments, and demonstrations dealing with the effective combination or coordination of public, private, or

combined public-private methods or systems for the delivery of health services at regional, State, or local levels, and

(v) projects for research and demonstrations in the provision of home health services.

(2) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this subsection, a grant or contract under this subsection with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, experimental, or demonstration purposes. The provisions of clause (5) of the third sentence of section 291e(a) of this title and such other conditions as the Secretary may determine shall apply with respect to grants or contracts under this subsection for projects for construction of a facility or for acquisition of equipment.

(3) (A) Payments of any grants or under the contracts under this subsection may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

(B) The amounts otherwise payable to any person under a grant or contract made under this subsection shall be reduced by—

(i) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(ii) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

(b) Systems analysis of national health care plans; cost and coverage report on existing legislative proposals.

(1) (A) The Secretary shall develop, through utilization of the system analysis method, plans for health care systems designed adequately to meet the health needs of the American people. For purposes of the preceding sentence, the systems analysis method means the analytical method by which various means of obtaining a desired result or goal is associated with the costs and benefits involved.

(B) The Secretary shall complete the development of the plans referred to in subparagraph (A), within such period as may be necessary to enable him to submit to the Congress not later than September 30, 1971, a report thereon which shall describe each plan so develop in terms of—

(i) the number of people who would be covered under the plan;

(ii) the kind and type of health care which would be covered under the plan;

(iii) the cost involved in carrying out the plan and how such costs would be financed;

(iv) the number of additional physicians and other health care personnel and the number and type of health care facilities needed to enable the plan to become fully effective;

(v) the new and improved methods, if any, of delivery of health care services which would be developed in order to effectuate the plan;

(vi) the accessibility of the benefits of such plan to various socioeconomic classes of persons;

(vii) the relative effectiveness and efficiency of such plan as compared to existing means of financing and delivering health care; and

(viii) the legislative, administrative, and other actions which would be necessary to implement the plan.

(C) In order to assure that the advice and service of experts in the various fields concerned will be obtained in the plans authorized by this paragraph and that the purposes of this paragraph will fully be carried out—

(i) The Secretary shall utilize, whenever appropriate, personnel from the various agencies, bureaus, and other departmental subdivisions of the Department of Health, Education, and Welfare;

(ii) the Secretary is authorized, with the consent of the head of the department or agency involved, to utilize (on a reimbursable basis) the personnel and other resources of other departments and agencies of the Federal Government; and

(iii) the Secretary is authorized to consult with appropriate State or local public agencies, private organizations, and individuals.

(2) (A) The Secretary shall, in accordance with this paragraph, conduct a study of each legislative proposal which is introduced in the Senate or the House of Representatives during the Ninety-first Congress, and which undertakes to establish a national health insurance plan or similar plan designed to meet the needs of health insurance or for health services of all or the overwhelming majority of the people of the United States.

(B) In conducting such study with respect to each such legislative proposal, the Secretary shall evaluate and analyze such proposal with a view to determining—

(i) the costs of carrying out the proposal; and

(ii) the adequacy of the proposal in terms of (I) the portion of the population covered by the proposal, (II) the type health care provided, paid for, or insured against under the proposal, (III) whether, and if so, to what extent, the proposal provides for the development of new and improved methods for the delivery of health care and services.

(C) Not later than March 31, 1971, the Secretary shall submit to the Congress a report on each legislative proposal which he has been directed to study under this paragraph, together with an analysis and evaluation of such proposal.

(d) Authorization of appropriations.

(1) There are authorized to be appropriated for payment of grants or under contracts under subsection (a) of this section and for purposes of carrying out the provisions of subsection (b) of this section, $71,000,000 for the fiscal year ending June 30, 1971 (of which not less than $2,000,000 shall be available only for purposes of carrying out the provisions of subsection (b) of this section), $82,000,000 for the fiscal year ending June 30, 1972, and $94,000,000 for the fiscal year ending June 30, 1973.

(2) In addition to the funds authorized to be appropriated under paragraph (1) to carry out the provisions of subsection (b) of this section there are hereby authorized to be appropriated to carry out such provisions for each fiscal year such sums as may be necessary. (July 1, 1944, ch. 373, title III, § 304, as added July 28, 1955, ch. 417, § 3, 69 Stat. 382, and amended Aug. 2, 1956, ch. 871, title V, § 502, 70 Stat. 930; Dec. 5, 1967, Pub. L. 90–174, § 3(a), 81 Stat. 534; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(A), 84 Stat. 352; Oct. 30, 1970, Pub. L. 91–515, title II, §§ 201(a)-(c), 202, 203, 84 Stat. 1301–1303.)

REFERENCES IN TEXT

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, referred to in subsec. (a) (1), is Pub. L. 88–164, Oct. 31, 1963, 77 Stat. 284, which was classified principally to chapter 33 of this title. The definition of "facilities for the mentally retarded" contained therein is set out in section 2691 of this title.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–515, §§ 201(a)(1), 203, redesignated former subsec. (a) as (a)(1), and, as so redesignated substituted "(A)" and "(B)" for "(1)" and "(2)", and "(i)-(iii)" for "(A)-(C)", and added cls. (iv) and (v).

Subsec. (a)(2). Pub. L. 91–515, § 201(a)(2), redesignated former subsec. (b) as (a)(2), and, as so redesignated, substituted "subsection" for "section" wherever appearing therein.

Subsec. (a)(3). Pub. L. 91–515, §§ 201(a)(3), 202, redesignated former subsec. (c) as (a)(3)(A), and as so redesignated, substituted "subsection" for "section" wherever appearing therein, and added subsec. (a)(3)(B).

Subsec. (b). Pub. L. 91–515, § 201(a)(2)(A), (b), added subsec. (b). Former subsec. (b) was redesignated as subsec. (a)(2).

Subsec. (c). Pub. 91–515, §§ 201(a)(3)(A), (c), 202(1), redesignated former subsec. (d) as (c), and, as so redesignated, substituted provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, and authorizing to be appropriated such additional sums for each fiscal year as may be necessary to carry out the provisions of subsec. (b), for provisions authorizing appropriations of $20,000,000 for the fiscal year ending June 30, 1968, $40,000,000 for the fiscal year ending June 30, 1969, and $60,000,000 for the fiscal year ending June 30, 1970. Former subsec. (c) was redesignated as subsec. (a)(3)(A).

Subsec. (d). Pub. L. 91–515, § 201(c), redesignated former subsec. (d) as (c).

Pub. L. 91–296 struck out provisions authorizing the use of appropriated funds for evaluation of the program authorized by this section. See section 229b of this title.

1967—Pub. L. 90–174 substituted provisions of subsecs. (a)—(d) for research and demonstrations relating to health facilities (incorporated from former section 291n of this title) for provisions of former subsecs. (a)—(d) for mental health study including grants for special projects, conditions thereof, and definition of "organization", authorization of appropriations, terms of grant, availability of amounts otherwise appropriated and noninterference with research and study programs of the National Institute of Mental Health, and acceptance of additional financial support.

1956—Act Aug. 2, 1956, changed heading of section 304 of act July 1, 1944 from "Grants for special projects in mental health" to "Mental health study grants". Section heading has been changed for purposes of codification.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 201(d) of Pub. L. 91–515 provided that: "The amendments made by subsection (c) of this section [amending subsec. (c) of this section] shall be effective only with respect to fiscal years ending after June 30, 1970."

Section 401(b)(1) of Pub. L. 91–296 provided, in part, that the amendment by section 401(b)(1)(A) of Pub. L. 91–296 [amending subsec. (d) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

SHORT TITLE

Section 1 of Joint Res. July 28, 1955, provided that: "This joint resolution [which enacted this section and provisions set out as a note hereunder] may be cited as the 'Mental Health Study Act of 1955'."

DECLARATION OF PURPOSE

Section 2 of Joint Res. July 28, 1955, provides a Congressional statement of the critical need for an analysis and reevaluation of the human and economic problems of mental illness and of the resources, methods, and practices utilized in diagnosing, treating, caring for, and rehabilitating the mentally ill, both within and outside of institutions, as might lead to the development of recommendations for such better utilization of those resources or such improvements on and new developments in methods of diagnosis, treatment, care, and rehabilitation as give promise of resulting in a marked reduction in the incidence or duration of mental illness and, in consequence, a lessening of the appalling emotional and financial drain on the families of those afflicted or on the economic resources of the States and of the Nation and a declaration of the policy to promote mental health and to help solve the complex and the interrelated problems posed by mental illness by encouraging the undertaking of nongovernmental, multidisciplinary research into and reevaluation of all aspects of our resources, methods, and practices for diagnosing, treating, caring for, and rehabilitating the mentally ill, including research aimed at the prevention of mental illness.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

CHILDREN'S EMOTIONAL ILLNESS STUDY; PROGRAM GRANTS; CONDITIONS; DEFINITIONS; APPROPRIATIONS; TERMS OF GRANT

Pub. L. 89–97, title II, § 231, July 30, 1965, 79 Stat. 360, amended Pub. L. 90–248, title III, § 305, Jan. 2, 1968, 81 Stat. 929, provided that:

"(a) The Secretary of Health, Education, and Welfare is authorized, upon the recommendation of the National Advisory Mental Health Council and after securing the advice of experts in pediatrics and child welfare, to make grants for carrying out a program of research into and study of our resources, methods, and practices for diagnosing or preventing emotional illness in children and of treating, caring for, and rehabilitating children with emotional illnesses.

"(b) Such grants may be made to one or more organizations, but only on condition that the organization will undertake and conduct, or if more than one organization is to receive such grants, only on condition that such organizations have agreed among themselves to undertake and conduct, a coordinated program of research into and study of all aspects of the resources, methods, and practices referred to in subsection (a).

"(c) As used in subsection (b), the term 'organization' means a nongovernmental agency, organization, or commission, composed of representatives of leading national

medical, welfare, educational, and other professional associations, organizations, or agencies active in the field of mental health of children.

"(d) There are authorized to be appropriated for the fiscal year ending June 30, 1966, the sum of $500,000 to be used for a grant or grants to help initiate the research and study provided for in this section; and the sum of $500,000 for the succeeding fiscal year for the making of such grants as may be needed to carry the research and study to completion. The terms of any such grant shall provide that the research and study shall be completed not later than three years from the date it is inaugurated; that the grantee shall file annual reports with the Congress, the Secretary, and the Governors of the several States, among others that the grantee may select; and that the final report shall be similarly filed."

DEFINITON OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242i, 242j of this title.

§ 242c. National health surveys and studies.

(a) Determination of extent of illness and disability and related information; development and test of methods for obtaining current data; use and publication of information.

The Surgeon General is authorized (1) to make, by sampling or other appropriate means, surveys and special studies of the population of the United States to determine the extent of illness and disability and related information such as: (A) the number, age, sex, ability to work or engage in other activities, and occupation or activities of persons afflicted with chronic or other disease or injury or handicapping condition; (B) the type of disease or injury or handicapping condition of each person so afflicted; (C) the length of time that each such person has been prevented from carrying on his occupation or activities; (D) the amounts and types of services received for or because of such conditions; (E) the economic and other impacts of such conditions; (F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution; and (2) in connection therewith, to develop and test new or improved methods for obtaining current data on illness and disability and related information. No information obtained in accordance with this paragraph may be used for any purpose other than the statistical purposes for which it was supplied except pursuant to regulations of the Secretary; nor may any such information be published if the particular establishment or person supplying it is identifiable except with the consent of such establishment or person.

(b) Development of uniform system of health information and statistics.

The Secretary is authorized, directly or by contract, to undertake research, development, demonstration, and evaluation, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels.

(c) Publication of results.

The Surgeon General is authorized, at appropriate intervals, to make available, through publications and otherwise, to any interested governmental or other public or private agencies, organizations, or groups, or to the public, the results of surveys or studies made pursuant to subsection (a) of this section.

(d) Authorization of appropriations.

There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $25,000,000 for the fiscal year ending June 30, 1973.

(e) Cooperation with other Governmental or State agencies.

To assist in carrying out the provisions of this section the Surgeon General is authorized and directed to cooperate and consult with the Departments of Commerce and Labor and any other interested Federal Departments or agencies and with State health departments. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 5 of Title 41, of any appropriate State or other public agency, and may, without regard to section 5 of Title 41, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group, or such individual, and the Secretary of Health, Education, and Welfare. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement. (July 1, 1944, ch. 373, title III, § 305, as added July 3, 1956, ch. 510, § 3, 70 Stat. 490, and amended Oct. 30, 1970, Pub. L. 91–515, title II, § 210, 84 Stat. 1303.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 210(a), added cls. (F)–(H) and provisions relating to restrictions imposed upon the use and divulgence of information obtained in accordance with this paragraph.

Subsec. (b). Pub. L. 91–515, § 210(b), added subsec. (b). Former subsec. (b) was redesignated as (c).

Subsec. (c). Pub. L. 91–515, § 210(b), redesignated former subsec. (b) as (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 91–515, § 210(b), (c), redesignated former subsec. (c) as (d), and, as so redesignated, substituted provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, for provisions authorizing appropriations for each fiscal year beginning after June 30, 1956, such sums as the Congress determines for carrying out the provisions of this section. Former subsec. (d) was redesignated as (e).

Subsec. (e). Pub. L. 91–515, § 210(b), redesignated former subsec. (d) as (e).

SHORT TITLE

Section 1 of act July 3, 1956, provided that: "This Act [which enacted this section, amended section 241 of this title, and enacted provisions set out as a note hereunder] may be cited as the 'National Health Survey Act'."

DECLARATION OF PURPOSE

Section 2 of act July 3, 1956, provided that:

"(a) The Congress hereby finds and declares—

"(1) that the latest information on the number and relevant characteristics of persons in the country suffering from heart disease, cancer, diabetes, arthritis and rheumatism, and other diseases, injuries, and handicapping conditions is now seriously out of date; and

"(2) that periodic inventories providing reasonably current information on these matters are urgently needed

for purposes such as (A) appraisal of the true state of health of our population (including both adults and children), (B) adequate planning of any programs to improve their health, (C) research in the field of chronic diseases, and (D) measurement of the numbers of persons in the working ages so disabled as to be unable to perform gainful work.

"(b) It is, therefore, the purpose of this Act [adding this section and amending section 241 of this title] to provide (1) for a continuing survey and special studies to secure on a non-compulsory basis accurate and current statistical information on the amount, distribution, and effects of illness and disability in the United States and the services received for or because of such conditions; and (2) for studying methods and survey techniques for securing such statistical information, with a view toward their continuing improvement."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 242d. Graduate or specialized training for physicians, engineers, nurses, and other professional personnel.

(a) Appropriations.

There are authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next twelve fiscal years, such sums as the Congress may determine but not to exceed $4,500,000 for the fiscal year ending June 30, 1965, $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, $10,000,000 each for the fiscal year ending June 30, 1968, and the two succeeding fiscal years, $14,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $18,000,000 for the fiscal year ending June 30, 1973, to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel.

(b) Awards of traineeships to individuals or institutions.

Traineeships under this section may be awarded by the Surgeon General either (1) directly to individuals whose applications for admission have been accepted by the public or other nonprofit institutions providing the training, or (2) through grants to such institutions.

(c) Payments; time; conditions; limitations.

Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments to institutions may be used only for traineeships, and payments under this section with respect to any traineeship shall be limited to such amounts as the Surgeon General finds necessary to cover the cost of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainee.

(d) Advisory committee; composition and functions.

The Surgeon General shall appoint an expert advisory committee, composed of persons representative of the principal health specialities in the fields of public health administration and training, to advise him in connection with the administration of this section and section 242g of this title, including the development of program standards and policies and including, in the case of section 242g of this title, certification to the Surgeon General of projects which it has reviewed and approved.

(e) Conference; representatives; appraisal of traineeships; report and recommendations.

The Surgeon General shall, between June 30, 1958, and December 1, 1958, call a conference broadly representative of the professional and training groups interested in and informed about training of professional public health personnel, and including members of the advisory committee appointed pursuant to subsection (d) of this section, to assist him in appraising the effectiveness of the traineeships under this section in meeting the needs for trained public health personnel; in considering modifications in this section, if any, which may be desirable to increase its effectiveness; and in considering the most effective distribution of responsibilities between Federal and State governments with respect to the administration and support of public health training. The Surgeon General shall submit to the Congress, on or before January 1, 1959, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1963, and December 1, 1963, call a similar conference, and shall submit to the Congress, on or before January 1, 1964, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1967, and December 1, 1967, call a similar conference, and shall submit to the Congress, on or before January 1, 1968, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section.

(f) Supervision of personnel or curriculum.

Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution. (July 1, 1944, ch. 373, title III, § 306, as added Aug. 2, 1956, ch. 871, title I, § 101, 70 Stat. 923, and amended July 23, 1959, Pub. L. 86–105, § 1, 73 Stat. 239; Sept. 8, 1960, Pub. L. 86–720, § 1(b), 74 Stat. 820; Aug. 27, 1964, Pub. L. 88–497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(b), 82 Stat. 789; Mar. 12, 1970, Pub. L. 91–208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311.)

REFERENCES IN TEXT

Section 73b–2 of title 5, referred to in subsec. (d), was repealed in the general revision of title 5, and the provisions are now covered by section 5703 of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–208 authorized the appropriation of $16,000,000 and $18,000,000, respectively, for the fiscal years ending June 30, 1972 and June 30, 1973.

Subsec. (d). Pub. L. 91–515 struck out the provisions which related to the payment of compensation and travel expenses of members of the advisory committee not otherwise in the employ of the United States.

1968—Subsec. (a). Pub. L. 90–490, § 302(b)(1), authorized appropriations of $10,000,000 and $14,000,000 for

fiscal years ending June 30, 1970, and 1971, respectively, and declared sanitarians eligible for training.

Subsec. (d). Pub. L. 90–490, § 302(b)(2), increased limitation of compensation from $50 to $100.

1964—Subsec. (a). Pub L. 88–497, § 2(a), substituted "twelve fiscal years" for "seven fiscal years" and specified maximum limits for the authorized appropriations for the fiscal years 1965–1969.

Subsec. (e). Pub. L. 88–497, § 2(b), required the Surgeon General to call a conference between June 30, 1967, and Dec. 1, 1967, and to submit a report to Congress on or before Jan. 1, 1968.

1960—Subsec. (d). Pub L. 86–720 inserted the words "and section 242g of this title" and "and including, in the case of section 242g of this title, certification to the Surgeon General of projects which it has reviewed and approved."

1959—Subsec. (a). Pub. L. 86–105 substituted "seven fiscal years" for "two fiscal years."

Subsec. (e). Pub. L. 86–105 required the Surgeon General to call a conference between June 30, 1963 and Dec. 1, 1963, and to submit a report to Congress on or before Jan. 1, 1964.

EFFECTIVE DATE

Section 102 of act Aug. 2, 1956, provided that this section shall become effective on July 1, 1956.

SHORT TITLE

Section 1 of Pub. L. 88–497 provided that Pub. L. 88–497, amending this section and section 242g of this title, may be cited as the "Graduate Public Health Training Amendments of 1964."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25. 1966, 31 F.R. 8855, Stat. 1610, and all the functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242g of this title.

§ 242e. Training of nursing teachers or supervisors.

CODIFICATION

Section, act July 1, 1944, ch. 373, title III, § 307, as added Aug. 2, 1956, ch. 871, title II, § 201, 70 Stat. 924, and amended July 23, 1959, Pub. L. 86–105, § 2, 73 Stat. 239; Oct. 30, 1970, Pub. L. 91–515 title VI, § 601(b)(2), 84 Stat. 1311, provided for a professional nurse traineeship program, and authorizations of appropriations were made through the fiscal year ending June 30, 1964. Provision for the continuation of the program was made by the Nurse Training Act of 1964 and is now contained in section 297 et seq. of this title.

§ 242f. International cooperation.

(a) Use of health research and research training resources.

To carry out the purposes of clause (1) of section 2101 of Title 22, the Surgeon General may, in the exercise of his authority under this chapter and other provisions of law to conduct and support health research and research training, make such use of health research and research training resources in participating foreign countries as he may deem necessary and desirable.

(b) Fellowships; equipment; meetings and conferences; interchange of scientists and experts; consultants; compensation and travel expenses.

In carrying out his responsibilities under this section the Surgeon General may—

(1) establish and maintain fellowships in the United States and in participating foreign countries;

(2) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining fellowships;

(3) make grants or loans of equipment, medical, biological, physical, or chemical substances or other materials, for use by public institutions or agencies, or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

(4) participate and otherwise cooperate in any international health research or research training meetings, conferences, or other activities;

(5) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of research or research training, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 73b–2 of Title 5 for persons in the Government service employed intermittently; and

(6) procure, in accordance with the provisions of section 55a of Title 5, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Secretary, but not in excess of $50 per diem, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b–2 of Title 5 for persons in the Government service employed intermittently.

(c) Building construction prohibition.

The Surgeon General may not, in the exercise of his authority under this section, assist in the construction of buildings for research or research training in any foreign country.

(d) Definitions.

For the purposes of this section—

(1) The term "health research" shall include, but not be limited to, research, investigations, and studies relating to causes and methods of prevention of accidents, including but not limited to highway and aviation accidents.

(2) The term "participating foreign countries" means those foreign countries which cooperate with the United States in carrying out the purposes of this section.

(July 1, 1944, ch. 373, title III, § 308, as added July 12, 1960, Pub. L. 86–610, § 3, 74 Stat. 364.)

REFERENCES IN TEXT

Sections 55a and 73b–2 of title 5, referred to in subsec. (b), were repealed in the general revision of title 5, and their provisions are now covered by sections 3109 and 5703, respectively, of Title 5, Government Organization and Employees.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan. No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2103.

§ 242g. Graduate public health training grants.

(a) Appropriations.

In order to enable the Surgeon General to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated not to exceed $2,000,000 for each fiscal year in the period beginning July 1, 1960, and ending June 30, 1964, $2,500,000 for the fiscal year ending June 30, 1965, $4,000,000 for the fiscal year ending June 30, 1966, $5,000,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $9,000,000 for the fiscal year ending June 30, 1969, $8,500,000 for the fiscal year ending June 30, 1970, $14,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $16,000,000 for the fiscal year ending June 30, 1973.

(b) Recommended projects; duration of grant; payments.

Grants to institutions under subsection (a) of this section may be made only for those projects which are recommended by the advisory committee appointed pursuant to section 242d(d) of this title. Any grant for a project made from an appropriation under this section for any fiscal year may include such amounts for carrying out such project during succeeding years. Payment pursuant to such grants may be made in advance or by way of reimbursement, and in such installments as the Surgeon General shall prescribe by regulations after consultation with representatives of such institutions.

(c) Authorization of appropriations for grants to schools of public health for comprehensive professional training, specialized consultive services, and technical assistance.

There are also authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1970, $9,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, to enable the Surgeon General to make grants, under such terms and conditions as may be prescribed by regulations, for provision, in public or nonprofit private schools of public health accredited by a body or bodies recognized by the Surgeon General, of comprehensive professional training, specialized consultative services, and technical assistance in the fields of public health and in the administration of State or local public health programs, except that in allocating funds made available under this subsection among such schools of public health, the Surgeon General shall give primary consideration to the number of federally sponsored students attending each such school. (July 1, 1944, ch. 373, title III, § 309, as added Sept. 8, 1960, Pub. L. 86–720, § 1(a), 74 Stat. 819, and amended Aug. 27, 1964, Pub. L. 88–497, § 3, 78 Stat. 613; Nov. 3, 1966, Pub. L. 89–749, § 4, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90–174, §§ 2(g), 8 (c), 81 Stat. 534, 540; Aug. 16, 1968, Pub. L. 90–490, title III, § 302(a), 82 Stat. 788; Mar. 12, 1970, Pub. L. 91–208, §§ 1, 2, 84 Stat. 52; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(B), 84 Stat. 352.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–208, § 2, increased from $12,000,000 to $14,000,000 the authorization of appropriation for the fiscal year ending June 30, 1971, and added authorization of appropriations of $15,000,000 and $16,000,000, respectively, for the fiscal years ending June 30, 1972, and June 30, 1973.

Subsec. (c). Pub. L. 91–296 struck out provisions authorizing the use of appropriated funds for evaluation of the program authorized by subsec. (c).

Pub. L. 91–208, § 1, authorized the appropriation of $9,000,000, $12,000,000 and $15,000,000, for the fiscal years ending June 3, 1971, 1972, and 1973, respectively.

1968—Subsec. (a). Pub. L. 90–490 authorized appropriations of $8,500,000 and $12,000,000 for fiscal years ending June 30, 1970, and June 30, 1971, respectively.

1967—Subsec. (c). Pub. L. 90–174 struck out "each" after "$5,000,000" and authorized appropriations of $6,000,000 and $7,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and designated existing provisions as cl. (1) and added cl. (2), respectively.

1966—Subsec. (c). Pub. L. 89–749 added subsec. (c).

1964—Subsec. (a). Pub. L. 88–497, § 3 (a), (b), substituted authority to appropriate for public or nonprofit private institutions instead of schools of nursing or engineering providing training in public health for nurses or engineers, increased the maximum authorization for the fiscal year ending June 30, 1965, from $2,000,000 to $2,500,000, and authorized appropriations for the fiscal years 1966–1969.

Subsec. (b). Pub. L. 88–497, § 3(c), substituted "institutions" for "schools" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 401(b)(1) of Pub. L. 91–296 provided, in part, that the amendment by section 401(b)(1)(B) of Pub. L. 91–296 [amending subsec. (c) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2(g) of Pub. L. 90–174 provided in part that amendment of subsec. (c) by such section 2(g) shall be effective July 1, 1967.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 4 of Pub. L. 89–749 provided in part that subsec. (c) of this section shall be effective July 1, 1967.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(b) of Pub. L. 88–497 provided in part that the substitution of authority to appropriate for public or nonprofit private institutions instead of schools of nursing or engineering in subsec. (a) of this section, shall be effective in case of grants from appropriations for any fiscal year beginning after June 30, 1964.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (c) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242d of this title.

§ 242h. Health services for domestic agricultural migrants.

There are authorized to be appropriated not to exceed $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30,

1967, $9,000,000 each for the fiscal year ending June 30, 1968, and the next fiscal year, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $25,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary (1) to make grants to public and other nonprofit agencies, institutions, and organizations for paying part of the cost of (i) establishing and operating family health service clinics for domestic agricultural migratory workers and their families, including training persons (including allied health professions personnel) to provide services in the establishing and operating of such clinics, and (ii) special projects to improve and provide a continuity in health services for and to improve the health conditions of domestic agricultural migratory workers and their families, including necessary hospital care, and including training persons (including allied health professions personnel) to provide health services for or otherwise improve the health conditions of such migratory workers and their families, and (2) to encourage and cooperate in programs for the purpose of improving health services, for or otherwise improving the health conditions of domestic agricultural migratory workers and their families. The Secretary may also use funds appropriated under this section to provide health services to persons (and their families) who perform seasonal agricultural services similar to the services performed by domestic agricultural migratory workers if the Secretary finds that the provision of health services under this sentence will contribute to the improvement of the health conditions of such migratory workers and their families. For the purposes of assessing and meeting domestic migratory agricultural workers' health needs, developing necessary resources, and involving local citizens in the development and implementation of health care programs authorized by this section, the Secretary must be satisfied, upon the basis of evidence supplied by each applicant, that persons broadly representative of all elements of the population to be served and others in the community knowledgeable about such needs have been given an opportunity to participate in the development of such programs, and will be given an opportunity to participate in the implementation of such programs. (July 1, 1944, ch. 373, title III, § 310, as added Sept. 25, 1962, Pub. L. 87-692, 76 Stat. 592, and amended Aug. 5, 1965, Pub. L. 89-109, § 3, 79 Stat. 436; Oct. 15, 1968, Pub. L. 90-574, title II, § 201, 82 Stat. 1006; Mar. 12, 1970, Pub. L. 91-209, 84 Stat. 52.)

AMENDMENTS

1970—Pub. L. 91-209 substituted "Secretary" for "Surgeon General", authorized appropriations of $20,000,000, $25,000,000, and $30,000,000 for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, respectively, made the bringing about of continuity in health services one of the objects of the Secretary's grants for special projects, inserted parenthetical reference to allied health professions personnel, authorized the Secretary to provide funds towards health services for those performing seasonal agricultural services, and provided for the representation of all elements of the migratory worker population, whose health needs are to be met, in the development of health programs and that such persons be given an opportunity to participate in the implementation of such programs.

1968—Pub. L. 90-574 added provisions authorizing appropriations of $9,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

1965—Pub. L. 89-109 substituted "not to exceed $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, and $9,000,000 for the fiscal year ending June 30, 1968" for "for the fiscal year ending June 30, 1963, the fiscal year ending June 30, 1964, and the fiscal year ending June 30, 1965, such sums, not to exceed $3,000,000 for any year, as may be be necessary", and inserted "including necessary hospital care, and" in cl. (1)(ii).

SHORT TITLE

Section 1 of Pub. L. 89-109 provided: "That this Act [amending this section and sections 246, 247a and 247b of this title] may be cited as the 'Community Health Services Extension Amendments of 1965'."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3 set out as a note under section 202 of this title.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90-574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90-574, set out as a note under section 1781 of Title 38.

§ 242i. Administration of grants in multigrant projects; promulgation of regulations.

For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by subchapter VII of this chapter, and sections 242b, 246(a), 246(b), 246(c), 246(d), and 246(e) of this title in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law. (July 1, 1944, ch. 373, title III, § 310A, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 270, 84 Stat. 1306.)

§ 242j. Annual report by Secretary on activities related to health facilities and services and expenditure of funds.

On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of subchapter VII of this chapter and sections 242b, 242c, 246(a), 246(b), 246(c), 246(d), and 246(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationships between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate. (July 1, 1944 ch. 373, title III, § 310B, as added Oct. 30, 1970, Pub. L. 91-515, title II, § 280, 84 Stat. 1307.)

PART B.—FEDERAL-STATE COOPERATION

§ 243. General grant of authority for cooperation.

(a) Enforcement of quarantine regulations; prevention of communicable diseases.

The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this chapter which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 246 of this title, and shall advise the several States on matters relating to the preservation and improvement of the public health.

(b) Comprehensive and continuing planning; training of personnel for State and local health work.

The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out the purposes of section 246 of this title. The Secretary is also authorized to train personnel for State and local health work.

(c) Problems resulting from disasters; emergencies; reimbursement of United States.

The Secretary may enter into agreements providing for cooperative planning between Public Health Service medical facilities and community health facilities to cope with health problems resulting from disasters, and for participation by Public Health Service medical facilities in carrying out such planning. He may also, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for aid (other than planning) under the preceding sentences of this subsection as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation of the Public Health Service for the year in which such reimbursement is received. (July 1, 1944, ch. 373, title III, § 311, 58 Stat. 693; Nov. 3, 1966, Pub. L. 89-749, § 5, 80 Stat. 1190; Dec. 5, 1967, Pub. L. 90-174, § 4, 81 Stat. 536; Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308.)

AMENDMENTS

1970—Subsecs. (a), (b). Pub. L. 91-515 substituted "Secretary" for "Surgeon General" wherever appearing therein.

1967—Subsec. (c). Pub. L. 90-174 added subsec. (c).

1966—Pub. L. 89-749 designated existing provisions as subsec. (a), added subsec. (b), and amended subsec. (b) to permit the Surgeon General to train personnel for State and local health work.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5(a) of Pub. L. 89-749 provided in part that subsec. (b) of this section shall be effective July 1, 1966.

Section 5(b) of Pub. L. 89-749 provided in part that the amendment of subsec. (b) of this section, permitting the Surgeon General to train personnel for State and local health work, shall be effective July 1, 1967.

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (c) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857i of this title.

§ 244. Health conferences.

A conference of the health authorities of the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend. July 1, 1944, ch. 373, title III, § 312, 58 Stat. 693; July 3, 1946, ch. 538, § 8, 60 Stat. 424; Dec. 5, 1967, Pub. L. 90-174, § 12(b), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91-575, title II, § 282, 84 Stat. 1308.)

AMENDMENTS

1970—Pub. L. 91-515 substituted "Secretary" for "Surgeon General" wherever appearing therein.

1967—Pub. L. 90-174 provided for invitations to health conferences of other State or local public or private agencies, institutions, or organizations.

1946—Act July 3, 1946, added last sentence to provide for the invitation of State mental authorities to conferences whenever mental health matters are to be discussed.

§ 244a. Birth and death statistics; annual collection; compensation for transcription.

There shall be a collection of the statistics of the births and deaths in registration areas annually, the data for which shall be obtained only from and restricted to such registration records of such States and municipalities as in the discretion of the Secretary of Health, Education, and Welfare possess records affording satisfactory data in necessary detail, the compensation for the transcription of which shall not exceed 4 cents for each birth or death reported; or a minimum compensation of $25 may be allowed in the discretion of the Secretary of Health, Education, and Welfare, in States or cities registering less than five hundred deaths or five hundred births during the preceding year. (July 1, 1944, ch. 373, title III, § 312a, as added Aug. 31, 1954, ch. 1158, § 2, 68 Stat. 1025.)

PRIOR PROVISIONS

Provisions substantially similar to this section were formerly contained in act Mar. 6, 1902, ch. 139, § 8, 32 Stat. 52; as amended by acts Apr. 27, 1904, ch. 1626, 33 Stat. 362; June 18, 1929, ch. 28, § 21, 46 Stat. 26; which was classified to former section 101 of Title 13, Census.

§ 245. Collection of vital statistics.

To secure uniformity in the registration of mortality, morbidity, and vital statistics the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part of the health reports published by the Secretary. (July 1, 1944, ch. 373, title III, § 313, 58 Stat. 693; Oct. 30, 1970, Pub. L. 91–515, title II, § 282, 84 Stat. 1308.)

AMENDMENTS

1970—Pub. L. 91–515 substituted "Secretary" for "Surgeon General" wherever appearing therein.

§ 246. Grants and services to States.

(a) Comprehensive health planning and services.

(1) In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973.

(2) In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representatives of the hospitals or other health care facilities of such Administration which are located in such State) and nongovernmental organizations and groups concerned with health (including representation of the regional medical program or programs included in whole or in part within the State), and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to provide for comprehensive State planning for health services (both public and private and including home health care), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State and including environmental considerations as they relate to public health;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommend appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

(3) (A) From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year.

(4) From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum of such cost.

(b) Project grants for areawide health planning; authorization of appropriations; prerequisites for grants; application; contents.

(1) (A) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1973, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section, project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; and including the provision of such services through home health care; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1967, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973.

(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

(2) (A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services.

(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement modernization, and expansion which is consistent with an overall State plan which will meet the needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

(c) Project grants for training, studies, and demonstrations; authorization of appropriations.

The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, $7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, and $12,000,000 for the fiscal year ending June 30, 1973.

(d) Grants for comprehensive public health services; authorization of appropriations; State plans; allotments; payments to State; Federal share; allocation of funds.

(1) There are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1968, $90,000,000 for the fiscal year ending June 30, 1969, $100,000,000 for the fiscal year ending June 30, 1970, $130,000,000 for the fiscal year ending June 30, 1971, $145,000,000 for the fiscal year ending June 30, 1972, and $165,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary to make grants to State health or mental health authorities to assist the States in establishing and maintaining adequate public health services, including the training of personnel for State and local health work. The sums so appropriated shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for provision of public health services.

(2) In order to be approved under this subsection, a State plan for provision of public health services must—

(A) provide for administration or supervision of administration by the State health authority or, with respect to mental health services, the State mental health authority;

(B) set forth the policies and procedures to be followed in the expenditure of the funds paid under this subsection;

(C) contain or be supported by assurances satisfactory to the Secretary that (i) the funds paid to the State under this subsection will be used to make significant contribution toward providing and strengthening public health services in the various political subdivisions in order to improve the health of the people; (ii) such funds will be made available to other public or nonprofit private agencies, institutions, and organizations, in accordance with criteria which the Secretary determines are designed to secure maximum participation of local, regional, or metropolitan agencies and groups in the provision of such services; (iii) such funds will be used to supplement and, to the extent practical, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (iv) the plan is compatible with the total health program of the State;

(D) provide for the furnishing of public health services under the State plan in accordance with such plans as have been developed pursuant to subsection (a) of this section;

(E) provide that public health services furnished under the plan will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State health authority or, with respect to mental health services, the State mental health authority, will from time to time, but not less often than annually, review and evaluate its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(H) provide that the State health authority or, with respect to mental health services, the State mental health authority, will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(I) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subsection;

(J) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection;

(K) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem; and

(L) provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem.

(3) From the sums appropriated to carry out the provisions of this subsection the several States shall be entitled for each fiscal year to allotments determined, in accordance with regulations, on the basis of the population and financial need of the respective States, except that no State's allotment shall be less for any year than the total amounts alloted to such State under formula grants for cancer control, plus other allotments under this section, for the fiscal year ending June 30, 1967.

(4) (A) From each State's allotment under this subsection for a fiscal year, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under this subsection. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this subsection.

(B) For the purpose of determining the Federal share for any State, expenditures by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State or a political subdivision thereof.

(5) The "Federal share" for any State for purposes of this subsection shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that in no case shall such percentage be less than 33⅓ per centum or more than 66⅔ per centum, and except that the Federal share for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 66⅔ per centum.

(6) The Federal shares shall be determined by the Secretary between July 1 and September 1 of each year, on the basis of the average per capita incomes of each of the States and of the United States for the most recent year for which satisfactory data are available from the Department of Commerce, and such determination shall be conclusive for the fiscal year beginning on the next July 1. The populations of the several States shall be determined on the basis of the latest figures for the population of the several States available from the Department of Commerce.

(7) At least 15 per centum of a State's allotment under this subsection shall be available only to the State mental health authority for the provision under the State plan of mental health services. Effective with respect to allotments under this subsection for fiscal years ending after June 30, 1968, at least 70 per centum of such amount reserved for mental health services and at least 70 per centum of the remainder of a State's allotment under this subsection shall be available only for the provision under the State plan of services in communities of the State.

(e) Project grants for health services and related training; authorization of appropriations; review of application by appropriate areawide health planning agency.

There are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1968, $95,000,000 for the fiscal year ending June 30, 1969, $80,000,000 for the fiscal year ending June 30, 1970, $109,500,000 for the fiscal year ending June 30, 1971, $135,000,000 for the fiscal year ending June 30, 1972, and $157,000,000 for the fiscal year ending June 30, 1973, for grants to any public or nonprofit private agency, institution, or organization to cover part of the cost (including equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity) of (1) providing services (including related training) to meet health needs of limited geographic scope or of specialized regional or national significance, or (2) developing and supporting for an initial period new programs of health services (including related training). Any grant made under this subsection may be made only if the application for such grant has been referred for review and comment to the appropriate areawide health planning agency or agencies (or, if there is no such agency in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions) and only if the services assisted under such grant will be provided in accordance with sucn plans as have been developed pursuant to subsection (a) of this section.

(f) Interchange of personnel with States.

(1) For the purposes of this subsection, the term "State" means a State or a political subdivision of a State, or any agency of either of the foregoing engaged in any activities related to health or designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section; the term "Secretary" means (except when used in paragraph (3) (D)) the Secretary of Health, Education, and Welfare; and the term "Department" means the Department of Health, Education, and Welfare.

(2) The Secretary is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Department and assignment to States of officers and employees in the Department engaged in work related to health, for work which the Secretary determines will aid the Department in more effective discharge of its responsibilities in the field of health as authorized by law, including cooperation with States and the

provision of technical or other assistance. The period of assignment of any officer or employee under an arrangement shall not exceed two years.

(3) (A) Officers and employees in the Department assigned to any State pursuant to this subsection shall be considered, during such assignment, to be (i) on detail to a regular work assignment in the Department, or (ii) on leave without pay from their positions in the Department.

(B) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Department for all purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the Department and the State involved.

(C) In the case of persons so assigned and on leave without pay—

(i) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Department, they may receive supplemental salary payments from the Department in the amount considered by the Secretary to be justified, but not at a rate in excess of the difference between the State rate and the Department rate; and

(ii) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Secretary to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

(iii) to continuation of their insurance under the Federal Employees' Group Life Insurance Act of 1954, and coverage under the Federal Employees' Health Benefits Act of 1959, so long as the Department continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such Acts the amount of the employee's contributions and the Government's contribution from appropriations of the Department; and

(iv) (I) in the case of commissioned officers of the Service, to have their service during their assignment treated as provided in section 215(d) of this title for such officers on leave without pay, or (II) in the case of other officers and employees in the Department, to credit the period of their assignment under the arrangement under this subsection toward periodic or longevity step increases and for retention and leave accrual purposes, and, upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Secretary into such fund of the amount which would have been payable by him during the period of such assignment with respect to a like Federal salary, to treat (notwithstanding the provisions of the Independent Offices Appropriation Act, 1959, under the head "Civil Service Retirement and Disability Fund") their service during such period as service within the meaning of the Civil Service Retirement Act; except that no officer or employee or his beneficiary may receive any benefits under the Civil Service Retirement Act, the Federal Employees Health Benefits Act of 1959, or the Federal Employees' Group Life Insurance Act of 1954, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Department shall deposit currently in the funds created under the Federal Employees' Group Life Insurance Act of 1954, the Federal Employees Health Benefits Act of 1959, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these Acts on account of service with respect to which employee contributions are collected as provided in subparagraph (iii) and the amount of the Government's contribution under the Civil Service Retirement Act on account of service with respect to which payments (of the amount which would have been deducted under that Act) referred to in subparagraph (iv) are made to such civil service retirement and disability fund.

(D) Any such officer or employee on leave without pay (other than a commissioned officer of the service) who suffers disability or death as a result of personal injury sustained while in the performance of his duty during an assignment hereunder, shall be treated, for the purposes of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such persons (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(4) Assignment of any officer or employee in the Department to a State under this subsection may be made with or without reimbursement by the State for the compensation (or supplementary compensation), travel and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

(5) Appropriations to the Department shall be available, in accordance with the standardized Government travel regulations or, with respect to commissioned officers of the Service, the joint travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this subsection on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods

and personnel effects, in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(6) Officers and employees of States who are assigned to the Department under an arrangement under this subsection may (A) be given appointments in the Department covering the periods of such assignments, or (B) be considered to be on detail to the Departments. Appointments of persons so assigned may be made without regard to the civil service laws. Persons so appointed in the Department shall be paid at rates of compensation determined in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, and shall not be considered to be officers or employees of the Department for the purposes of (A) the Civil Service Retirement Act, (B) the Federal Employees' Group Life Insurance Act of 1954, or (C) unless their appointments result in the loss of coverage in a group health benefits plan whose premium has been paid in whole or in part by a State contribution, the Federal Employees Health Benefits Act of 1959. State officers and employees who are assigned to the Department without appointment shall not be considered to be officers or employees of the Department, except as provided in subsection (7), nor shall they be paid a salary or wage by the Department during the period of their assignment. The supervision of the duties of such persons during the assignment may be governed by agreement between the Secretary and the State involved.

(7) (A) Any State officer or employee who is assigned to the Department without appointment shall nevertheless be subject to the provisions of section 203, 205, 207, 208, and 209 of Title 18.

(B) Any State officer or employee who is given an appointment while assigned to the Department, or who is assigned to the Department without appointment, under an arrangement under this subsection, and who suffers disability or death as a result of personal injury sustained while in the performance of his duty during such assignment shall be treated, for the purpose of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents, in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(8) The appropriations to the Department shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Department under an arrangement under this subsection.

(9) All arrangements under this subsection for assignment of officers or employees in the Department to States or for assignment of officers or employees of States to the Department shall be made in accordance with regulations of the Secretary.

(g) Consultation with State authorities; failure to comply with statute or rules and regulations; definitions.

(1) All regulations and amendments thereto with respect to grants to States under subsection (a) of this section shall be made after consultation with a conference of the State health planning agencies designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section. All regulations and amendments thereto with respect to grants to States under subsection (d) of this section shall be made after consultation with a conference of State health authorities and, in the case of regulations and amendments which relate to or in any way affect grants for services or other activities in the field of mental health, the State mental health authorities. Insofar as practicable, the Secretary shall obtain the agreement, prior to the issuance of such regulations or amendments, of State authorities or agencies with whom such consultation is required.

(2) The Secretary, at the request of any recipient of a grant under this section, may reduce the payments to such recipient by the fair market value of any equipment or supplies furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the State plan or the project with respect to which the grant under this section is made. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall, for purposes of determining the Federal share under subsection (a) or (d) of this section, be deemed to have been paid to the to the State.

(3) Whenever the Secretary, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of a State or a State health planning agency designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section, finds that, with respect to money paid to the State out of appropriations under subsection (a) or (d) of this section, there is a failure to comply substantially with either—

(A) the applicable provisions of this section;

(B) the State plan submitted under such subsection; or

(C) applicable regulations under this section;

the Secretary shall notify such State health authority, mental health authority, or health planning agency, as the case may be, that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied,

the Secretary shall make no payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(4) For the purposes of this section—

(A) The term "nonprofit" as applied to any private agency, institution, or organization means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia and the term "United States" means the fifty States and the District of Columbia.

(July 1, 1944, ch. 373, title III, § 314, 58 Stat. 693; July 3, 1946, ch. 538, § 9, 60 Stat. 424; June 16, 1948, ch. 481, § 5, 62 Stat. 468; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053; 67 Stat. 631; Aug. 1, 1956, ch. 852, § 18, 70 Stat. 910; July 22, 1958, Pub. L. 85-544, § 1, 72 Stat. 400; Oct. 5, 1961, Pub. L. 87-395, § 2(a)—(d), 75 Stat. 824; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(1), 76 Stat. 587; Aug. 5, 1965, Pub. L. 89-109, § 4, 79 Stat. 436; Nov. 3, 1966, Pub. L. 89-749, § 3, 80 Stat. 1181; Dec. 5, 1967, Pub. L. 90-174, §§ 2(a)—(f), 3(b)(2), 8(a), (b), 12(d), 81 Stat. 533—535, 540, 541; June 30, 1970, Pub. L. 91-296, title I, § 111(b), title IV, § 401(b)(1)(C), (D), 84 Stat. 340, 352; Oct 27, 1970, Pub. L. 91-513, title I, § 3(b), 84 Stat. 1241; Oct. 30, 1970, Pub. L. 91-515, title II, §§ 220, 230, 240, 250, 260(a)—(c)(1), 282, 84 Stat. 1304—1306, 1308; Dec. 31, 1970, Pub. L. 91-616, title III, § 331, 84 Stat. 1853; Jan. 5, 1971, Pub. L. 91-648, title IV, § 403, 84 Stat. 1925.)

REPEALS

Subsec. (f) of this section repealed (less applicapability to commissioned officers of the Public Health Service) by Pub. L. 91-648, Title IV, §§ 403, 404, Jan. 5, 1971, 84 Stat. 1925, effective sixty days after Jan. 5, 1971.

REFERENCES IN TEXT

The Federal Employees' Group Life Insurance Act of 1954, referred to in subsec. (f)(3)(C)(iii), (6), is now covered by chapter 87 of Title 5, Government Organization and Employees.

The Federal Employees Health Benefits Act of 1959, referred to in subsec. (f)(3)(C)(iii),(6), is now covered by chapter 89 of Title 5, Government Organization and Employees.

The provisions of the Independent Offices Appropriation Act, 1959, under the head "Civil Service Retirement and Disability Fund", referred to in subsec. (f)(3)(C)(iv), is now covered by section 8348(g) of Title 5, Government Organization and Employees.

The Civil Service Retirement Act, referred to in subsec. (f)(3)(C)(iv), (6) is covered by chapter 83 of Title 5, Government Organization and Employees.

The Federal Employees' Compensation Act, referred to in subsec. (f)(3)(D), (7)(B), is covered by chapter 81 of Title 5, Government Organization and Employees.

The civil service laws, referred to in subsec. (f)(6), are set out in Title 5, Government Organization and Employees.

AMENDMENTS

1970—Pub. L. 91-515, § 282, substituted "Secretary" for "Surgeon General" in subsecs. (a)(1), (a)(2)(C), (E)-(H), (K), (a)(3)(B), (a)(4), (b)(1)(A), (c), (d)(1), (d)(2)(C), (F)-(H), (J), (d)(4)(A), (d)(6), and (g)(1)-(3).

Subsec. (a)(1). Pub. L. 91-515, § 220(a), extended period for making grants to States from June 30, 1970 to June 30, 1973, and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Subsec. (a)(2)(B). Pub. L. 91-515, § 220 (b), (c), added provisions authorizing appointment of an exofficio member from representatives of Federal, State, and local agencies involved, and requiring representation of the regional medical program or programs included in whole or in part within the State.

Subsec. (a)(2)(C). Pub. L. 91-515, § 220(d), added "and including home health care" following "private" and "and including environmental considerations as they relate to public health" following "people of the State".

Subsec. (b). Pub. L. 91-515, § 230, redesignated existing provisions as subsec. (b)(1)(A), and, as so redesignated, extended period for making project grants from June 30, 1970 to June 30, 1973, added "and including the provision of such services through home health care" following "such services", and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, and added subsec. (b)(1)(B) and (b)(2).

Pub. L. 91-296, § 111(b), added provisions requiring that before grants be made to agencies or organizations to develop or revise health plans for an area the Secretary determine that the agency or organization provides means for appropriate representation of the interests of the hospitals, practicing physicians, and the general public.

Subsec. (c). Pub. L. 91-515, § 240, extended period for making grants from June 30, 1970, to June 30, 1973, and authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Subsec. (d)(1). Pub. L. 91-515, § 250(a), authorized appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

Pub. L. 91-296, § 401(b)(1)(C), struck out except which provided for the use of up to 1 per centum by the Secretary for evaluation. See, now, section 229b of this title.

Subsec. (d)(2)(C). Pub. L. 91-515, § 250(b), added provisions requiring the State plan to contain assurances that the plan is compatible with the total health program of the State.

Subsec. (d)(2)(K). Pub. L. 91-513 added subpar. (K).

Subsec. (d)(2)(L). Pub. L. 91-616 added subpar. (L).

Subsec. (e). Pub. L. 91-515, § 260 (a), (b), (c)(1), added provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, provisions authorizing grants to cover part of the cost of equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity, and provisions requiring the application for any grant made under this subsection to be referred for review and comment to the appropriate areawide health planning agency, or, if no such agency is in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions.

Pub. L. 91-296, § 401(b)(1)(D), struck out provision for the use of up to 1 per centum of the appropriation for grants under subsec. (e) by the Secretary for evaluation. See, now, section 229b of this title.

1967—Subsec. (a)(1). Pub. L. 90-174, § 2(a)(1), extended period for making grants to States from June 30, 1968, to June 30, 1970, increased appropriations authorization for fiscal year ending June 30, 1968, from $5,000,000 to $7,000,000, and authorized appropriations of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1969, and 1970, respectively.

Subsec. (a)(2) (I)—(K). Pub. L. 90-174, § 2(a)(2), added subpar. (I) and redesignated former subpars. (I) and (J) as (J) and (K), respectively.

Subsec. (a)(4). Pub. L. 90-174, § 2(a)(3), limited Federal share of expenditures, in the case of allotments for fiscal year ending June 30, 1968, to 75 per centum of cost of planning.

Subsec. (b). Pub. L. 90-174, § 2(b) (1), (2), extended period for making grants to public or nonprofit private organizations from June 30, 1968, to June 30, 1970, and

authorized appropriations of $10,000,000 and $15,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and provided for appropriate representation of interests of local government where recipient of grant is not a local government or combination thereof or an agency of such government or combination, respectively.

Subsec. (c). Pub. L. 90–174, § 2(c), extended period for making grants to public or nonprofit private organizations from June 30, 1968, to June 30, 1970, and authorized appropriations of $5,000,000 and $7,500,000 for fiscal years ending June 30, 1969, and 1970, respectively.

Subsec. (d)(1). Pub. L. 90–174, §§ 2(d)(1), 8(a), increased appropriations authorization for fiscal year ending June 30, 1968, from $62,500,000 to $70,000,000, and authorized appropriations of $90,000,000 and $100,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, and made program evaluation funds available for any fiscal year ending after June 30, 1968, respectively.

Subsec. (d)(5). Pub. L. 90–174, § 2(d)(2), made the Federal share of 66⅔ per centum applicable to the Trust Territory of the Pacific Islands.

Subsec. (d)(7). Pub. L. 90–174, § 2(d)(3), provided for an allocation of 70 per centum of funds for provision under the State plan of services in communities of the State.

Subsec. (e). Pub. L. 90–174, §§ 2(e), 3(b)(2), 8(b), increased appropriations authorization for fiscal year ending June 30, 1968, from $62,500,000 to $90,000,000, authorized appropriations of $95,000,000 and $80,000,000 for fiscal years ending June 30, 1969, and 1970, respectively, inserted "(including related training)" after "providing services" in cl. (1), substituted "developing" for "stimulating" and inserted "(including related training)" after "health services" in cl. (2), struck out cl. (3) which authorized grants to cover part of cost of undertaking studies, demonstrations, or training designed to develop new methods or improve existing methods of providing health services, and made program evaluation funds available for any fiscal year ending after June 30, 1968.

Subsec. (f)(5). Pub. L. 90–174, § 12(d)(1), inserted "for" before "the expenses of travel".

Subsec. (f)(6), (8). Pub. L. 90–174, § 12(d)(2), substituted "Department" for "Service" in pars. (6) and (8).

Subsec. (g)(4)(B). Pub. L. 90–174, § 2(f), defined "State" to include the Trust Territory of the Pacific Islands.

1966—Subsec. (a). Pub. L. 89–749 substituted provisions authorizing the Surgeon General to make grants to States to assist in comprehensive and continuing planning for their current and future health needs, authorizing appropriations therefor, setting out the requirements for an acceptable State plan for comprehensive State health planning, covering the allotting of the appropriated sums to the States, and the payment of the allotted funds, for provisions authorizing the Surgeon General, through the use of grants and other assistance, to help local programs of prevention, treatment, and control of venereal diseases, covering the payment of the costs of assistance by personnel of the Public Health Service to assist in carrying out the purposes of the section with respect to venereal disease, and authorizing the appropriation of funds.

Subsec. (b). Pub. L. 89–749 substituted provisions for project grants by the Surgeon General covering the development of comprehensive regional, metropolitan, or local coordination of existing and planned health facilities and persons required for providing services and the authorization of appropriations of $5,000,000 for fiscal 1967 and $7,500,000 for fiscal 1968 for provisions authorizing the appropriation of funds to enable the Surgeon General to aid in the development of measures for the local prevention, treatment, and control of tuberculosis.

Subsec. (c). Pub. L. 89–749 substituted provisions for project grants for the development of improved or more effective comprehensive health planning throughout the United States and the authorization of appropriations of $1,500,000 for fiscal 1967 and $2,500,000 for fiscal 1968 for provisions authorizing the Surgeon General to assist, through grants and otherwise, in the establishment and maintenance of adequate public health services by States, counties, health districts, and other political subdivisions, authorizing appropriations therefor, and covering the allotment, payment, and allocation of appropriated funds.

Subsec. (d). Pub. L. 89–749 substituted provisions authorizing grants by the Surgeon General to State health or mental health authorities to assist in establishing and maintaining adequate public health services, setting out the requirements for an acceptable State plan for the supplying of public health services, authorizing an appropriation of $62,500,000 for fiscal 1968, the allotment of appropriated funds, payments to States, and the determination of the Federal share for provisions covering the allotment of appropriated funds among the several States on the basis of population, incidence of venereal disease, tuberculosis, mental health problems, and the financial needs of the various States.

Subsec. (e). Pub. L. 89–749 substituted provisions for project grants for health services development to public or private nonprofit agencies and for the authorization of an appropriation of $62,500,000 for fiscal 1968 for provisions covering the establishment and maintenance of community programs of heart disease control and the allotments and appropriations therefor.

Subsec. (f). Pub. L. 89–749 substituted provisions covering the interchange of personnel with States, the application of statutes covering Federal employees to interchanged personnel, and the coverage of State officers and employees, for provisions for the determination and certification of amounts paid to each State from allotments thereto.

Subsec. (g). Pub. L. 89–749 substituted provisions for consultation with State health planning agencies concerning regulations and amendments with respect to grants to States, the reduction of payments, cessation of payments for non-compliance, and definitions, for provisions limiting the expending of grant funds for purposes specified by statute and by the agency, organization, or institution to which payment was made.

Subsec. (h)—(m). Pub. L. 89–749 eliminated subsecs. (h)—(m) which dealt, respectively, with the requirement that State funds be provided for the same purpose as that for which allotted funds are spent, the cessation of Federal aid and the procedures in connection therewith, the promulgation of rules and regulations and the consultation with State health authorities precedent thereto, the availability of appropriated funds for administrative expenses including printing and travel expenses, applicability of the section to Guam and Samoa, and the reduction of payments commensurate to the expense of the detailing of Public Health Service personnel to States.

1965—Subsec. (c). Pub. L. 89–109 substituted "first six fiscal years ending after June 30, 1961" for "first five fiscal years ending after June 30, 1961" and "$5,000,000" "$2,500,000".

1962—Subsec. (*l*). Pub. L. 87–688 inserted "and American Samoa", "or American Samoa", and "or American Samoa, respectively" following "Guam."

1961—Subsec. (c). Pub. L. 87–395, § 2(a)—(c), substituted "of the first five fiscal years ending after June 30, 1961, the sum of $50,000,000" for "fiscal year a sum not to exceed $30,000,000", "such amount as may be necessary" for "an amount, not to exceed $3,000,000", "$2,500,000" for "$1,000,000", and provided that when an appropriating act provides that the amounts it specifies are available only for allotments and payments for such services and activities under this subsection as specified in such act, the requirements of subsec. (h) shall apply to such allotments and payments.

Subsec. (m). Pub. L. 87–395, § 2(d), added subsec. (m).

1958—Subsecs. (c). Pub. L. 85–544 designated existing provisions of second sentence as clause (1) and added clause (2).

1956—Subsec. (*l*). Act Aug. 1, 1956, added subsec. (*l*).

1948—Subsec. (e). Act June 16, 1948, § 5(a), added subsec. (e) to provide for community programs of heart disease control. Former subsec. (e) redesignated (f).

Subsec. (f). Act June 16, 1948, § 5(a), (b), redesignated former subsec. (e) as (f) and added proviso relating to the determination and certification of amounts to be paid under subsec. (e). Former subsec. (f) redesignated (g).

Subsec. (g). Act June 16, 1948, § 5(a), (c), redesignated former subsec. (f) as (g) and brought subsecs. (e) and (f)(1) within the provisions of this subsection. Former subsec. (g) redesignated (h).

Subsec. (h). Act June 16, 1948, § 5(a), (d), redesignated former subsec. (g) as (h) and made the subsection applicable to agencies, institutions or other organizations specified in subsec. (f)(1). Former subsec. (h) redesignated (i).

Subsec. (i). Act June 16, 1948, § 5(a), (e), redesignated former subsec. (h) as (i), made the subsection applicable to subsec. (e), and made technical changes as a result of the renumbering of subsections. Former subsec. (i) redesignated (j).

Subsec. (j). Act June 16, 1948, § 5(a), redesignated former subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Act June 16, 1948, § 5(a), redesignated former subsec. (j) as (k).

1946—Subsec. (c). Act July 3, 1946, increased the annual appropriation from $20,000,000 to $30,000,000, and increased the annual amount available to provide demonstrations and to train personnel for State and local health work from $2,000,000 to $3,000,000.

Subsec. (d). Act July 3, 1946, provided that the Surgeon General shall give special consideration to the extent of the mental health problem as well as other special problems.

Subsec. (f). Act July 3, 1946, provided that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Subsec. (h). Act July 3, 1946, provided that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Subsec. (i). Act July 3, 1946, provided that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 260(c)(2) of Pub. L. 91-515 provided that: "The amendment made by paragraph (1) [amending subsec. (e) of this section to require review of grant applications] shall be effective with respect to grants under section 314(c) of the Public Health Service Act [subsec. (e) of this section] which are made after the date of enactment of this Act [Oct. 30, 1970]."

Section 401(b)(1) of Pub. L. 91-296 provided, in part, that the amendment by section 401(b)(1)(C), (D) of Pub. L. 91-296 [amending subsecs. (d)(1) and (e) of this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2(d)(2), (f) of Pub. L. 90-174 provided in part that amendment of subsecs. (d)(5) and (g)(4)(B) of this section by such section 2(d)(2), (f), shall be effective July 1, 1968.

Section 3(b) of Pub. L. 90-174 provided in part that the amendment of subsec. (e) of this section, repeal of section 291n of this title, and enactment of provisions set out as a note under section 242b of this title by such section 3(b) shall be effective with respect to appropriations for fiscal years ending after June 30, 1967.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 6 of Pub. L. 89-749 provided in part that: "The amendments made by section 3 [amending this section] shall become effective as of July 1, 1966, except that the provisions of section 314 of the Public Health Service Act [this section] as in effect prior to the enactment of this Act shall be effective until July 1, 1967, in lieu of the provisions of subsections (d) and (e), and the provisions of subsections (g) insofar as they relate to such subsections (d) and (e), of section 314 of the Public Health Service Act [this section] as amended by this Act."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4(b) of Pub. L. 87-688 provided that: "The amendments made by this section [to subsec. (*l*) of this section and sections 291g, 291i, and 291t of this title] shall become effective July 1, 1962."

EFFECTIVE AND TERMINATION DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-544 provided that: "The amendment made by the first section of this Act [amending subsec. (c) of this section] shall be applicable only to the fiscal years beginning July 1, 1958, and July 1, 1959."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 18 of act Aug. 1, 1956, provided in part that subsec. (*l*) shall be effective July 1, 1956.

SHORT TITLE

Section 1 of Pub. L. 90-174 provided: "That this Act [which enacted sections 217b, 254a, 263a, and 291m-1 of this title, amended subsecs. (a)(1), (2), (4), (b), (c), (d)(1), (5), (7), (e), (f)(5), (6), (8), and (g)(4)(B) of this section and sections 241(h), 242b, 242(g)(c), 243, 244, 249(a)(7), 251, 293e(a), 295h-4(1)(A)(ii), and 296e(c)(1) of this title, repealed section 291n of this title, and enacted provisions set out as notes under this section and sections 201, 242b, 242c, 263a, and 296(e) of this title] may be cited as the 'Partnership for Health Amendments of 1967'."

Section 1 of Pub. L. 89-749 provided: "That this Act [amending this section and sections 242g and 243 of this title, repealing sections 247a and 247c of this title, and enacting provisions set out as notes under this section and sections 242g and 243 of this title] may be cited as the 'Comprehensive Health Planning and Public Health Services Amendments of 1966'."

Section 1 of Pub. L. 87-395 provided: "That this Act [which is classified to sections 246(c), (m), 247a, 289c note, 291i (n), 291n (a), (b), 291s (4), 291s note, 291t, 291w, 292c, 292d (a), (c)(2), (e), 292e (a), 292f and 292g of this title] may be cited as the 'Community Health Services and Facilities Act of 1961'."

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsecs. (a)(2)(F) and (d)(2)(F) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(C) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

LIMITATION ON GRANTS-IN-AID TO SCHOOLS OF PUBLIC HEALTH

Section 2 of Pub. L. 85-544, which had limited the authority of the Surgeon General to make grants-in-aid totaling not to exceed $1,000,000 annually to schools of public health for fiscal years beginning July 1, 1958, and July 1, 1959, was repealed by section 2 of Pub. L. 86-720, Sept. 8, 1960, 74 Stat. 820.

GRANTS TO STATES TO PROVIDE FOR VACCINATION AGAINST POLIOMYELITIS

The Poliomyelitis Vaccination Assistance Act of 1955, act Aug. 12, 1955, ch. 863, 69 Stat. 704, as amended Feb. 15, 1956, ch. 39, 70 Stat. 18, authorized appropriations to remain available until close of June 30, 1957 and provided for allotments to States, State application for funds, payments to States, use of funds paid to States, furnishing of vaccine by Surgeon General, diversion of Federal funds, supervision over exercise of functions, and definitions.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 2 of Pub. L. 89-749 provided that:

"(a) The Congress declares that fulfillment of our national purpose depends on promoting and assuring the highest level of health attainable for every person, in an environment which contributes positively to healthful individual and family living; that attainment of this goal depends on an effective partnership, involving close intergovernmental collaboration, official and voluntary efforts, and participation of individuals and organizations; that Federal financial assistance must be directed to support the marshaling of all health resources—national, State, and local—to assure comprehensive health services of high quality for every person, but without interference

with existing patterns of private professional practice of medicine, dentistry, and related healing arts.

"(b) To carry out such purpose, and recognizing the changing character of health problems, the Congress finds that comprehensive planning for health services, health manpower, and health facilities is essential at every level of government; that desirable administration requires strengthening the leadership and capacities of State health agencies; and that support of health services provided people in their communities should be broadened and made more flexible."

APPLICABILITY OF REORG. PLAN NO. 3 OF 1966

Section 7 of Pub. L. 89-749 provided that: "The provisions enacted by this Act [amending this section and sections 242g and 243 of this title] shall be subject to the provisions of Reorganization Plan No. 3 of 1966 [set out as a note under section 202 of this title]."

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsecs. (d)(1) and (e) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242i, 242j, 243, 247a, 254b, 291e, 1857i of this title.

§ 246a. Bureau of State Services management fund; establishment; advancements; availability.

For the purpose of facilitating the economical and efficient conduct of operations in the Bureau of State Services which are financed by two or more appropriations where the costs of operation are not readily susceptible of distribution as charges to such appropriations, there is established the Bureau of State Services management fund. Such amounts as the Secretary may determine to represent a reasonable distribution of estimated costs among the various appropriations involved may be advanced each year to this fund and shall be available for expenditure for such costs under such regulations as may be prescribed by the Secretary: *Provided,* That funds advanced to this fund shall be available only in the fiscal year in which they are advanced: *Provided further,* That final adjustments of advances in accordance with actual costs shall be effected wherever practicable with the appropriations from which such funds are advanced. (Pub. L. 86-703, title II, § 201, Sept. 2, 1960, 74 Stat. 765; Pub. L. 91-515, title II, § 282, Oct. 30, 1970, 84 Stat. 1308.)

CODIFICATION

Section was not enacted as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1970—Pub. L. 91-515 substituted "Secretary" for "Surgeon General" wherever appearing therein.

§ 247. Publication of health educational information.

From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions engaged in work related to the functions of the Service. (July 1, 1944, ch. 373, title III, § 315, 58 Stat. 695; Oct. 30, 1970, Pub. L. 91-515, title II, § 282, 84 Stat. 1308.)

AMENDMENT

1970—Pub. L. 91-515 substituted "Secretary" for "Surgeon General".

§ 247a. National Advisory Council on Comprehensive Health Planning Programs.

(a) Establishment; composition; Chairman; qualifications of members.

The Secretary shall appoint, without regard to the civil service laws, a National Advisory Council on Comprehensive Health Planning Programs. The Council shall consist of the Secretary or his designee, who shall be the chairman, and sixteen members, not otherwise in the regular full-time employ of the United States, who are (1) leaders in the fields of the fundamental sciences, the medical sciences, or the organization, delivery, and financing of health care, (2) officials in State and areawide health planning agencies, (3) leaders in health care administration, or State or community or other public affairs, who are State or local officials, or (4) representatives of consumers of health care. At least six of the appointed members shall be individuals representing the consumers of health care, one shall be an official of a State health planning agency, one shall be an official of an areawide health planning agency, and one shall be a member of the National Advisory Council on Regional Medical Programs.

(b) Terms of office; vacancies; reappointment.

Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c) Compensation; travel expenses.

Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of service for GS-18 of the general schedule, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently.

(d) Functions of Council.

The Council shall advise and assist the Secretary in the preparation of general regulations for, and as to policy matters arising with respect to, the administration of section 246 of this title, with increased emphasis on cooperation in the coordination of programs thereunder with the National Advisory Council on Regional Medical Programs, with particular attention to the relationship between the

improved organization and delivery of health services and the financing of such services; and shall, in carrying out such functions, review, not less often than annually, the grants made under section 246 of this title to determine their effectiveness in carrying out its purposes. (July 1, 1944, ch. 373, title III, § 316, as added Oct. 30, 1970, Pub. L. 91–515, title II, § 281, 84 Stat. 1307.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

The general schedule, referred to in subsec. (c), is classified to section 5332 of Title 5.

PRIOR PROVISIONS

A prior section 247a, act July 1, 1944, ch. 373, title III, § 316, as added Oct. 5, 1961, Pub. L. 87–395, § 2(e), 75 Stat. 824, and amended Aug. 5, 1965, Pub. L. 89–109, § 5, 79 Stat. 437, relating to grants for improving community health services, was repealed by Pub. L. 89–749, § 6, Nov. 3, 1966, 80 Stat. 1190, eff. July 1, 1947.

§ 247b. Communicable disease control and vaccination assistance.

(a) Authorization of appropriations; programs and projects.

(a) There are hereby authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, and $90,000,000 for the fiscal year ending June 30, 1972, to enable the Secretary to make grants to States and, with the approval of the State health authority, to political subdivisions or instrumentalities of the States under this subsection. In the award of such grants the Secretary shall give consideration to the relative extent of the problems relating to one or more of the diseases referred to in subsection (b)(1) of this section and to the levels of performance in preventing and controlling such diseases. Such grants may be used for meeting the cost of communicable disease control programs, including the cost of studies to determine the communicable disease control needs of communities and the means of best meeting such needs.

(b) Definitions.

For the purposes of this subsection—

(1) a "communicable disease control program" means a program which is designed and conducted so as to contribute to national protection against tuberculosis, venereal disease, rubella, measles, Rh disease, pollomyelitis, diphtheria, tetanus, whooping cough or other communicable diseases which are transmitted from State to State, are amenable to reduction, and which are determined by the Secretary on the recommendation of the National Advisory Health Council to be of national significance, and

(2) the term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(c) Method of payment.

Payments under this section may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments, or overpayments, in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

(d) Grant reduction.

The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies (including vaccines and other preventive agents), or equipment furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when the furnishing of such supplies or equipment, or of the detail of such officer or employee (as the case may be), is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based, but such amount shall be deemed a part of the grant to such recipient and shall, for the purposes of subsection (c) of this section, be deemed to have been paid to such agency.

(e) Use of funds.

Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to a political subdivision of a State under other provisions of this chapter or other Federal law and which are available for the conduct of communicable disease control programs from being used in connection with programs assisted through grants under this section.

(f) Annual report.

The Secretary shall submit an annual report to the President for submission to the Congress on the effectiveness of activities assisted under this section in preventing and controlling communicable diseases.

(g) Vaccination; consent of individuals.

Nothing in this section shall be construed to require any State or any political subdivision or instrumentality of a State to have a communicable disease control or vaccination program which would require any person who objects to such treatment to be treated, or to have any child or ward of his treated. (July 1, 1944, ch. 373, title III, § 317, as added Oct. 23, 1962, Pub. L. 87–868, § 2, 76 Stat. 1155, and amended Aug. 5, 1965, Pub. L. 89–109, § 2, 79 Stat. 435; Oct. 16, 1970, Pub. L. 91–464, § 2, 84 Stat. 988.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–464 authorized appropriation of $75,000,000 for the fiscal year ending June 30, 1971, and $90,000,000 for the fiscal year ending June 30, 1972, and made the award of the grants dependent upon the extent of the communicable disease and the success of the programs and permitted the use of the grants for meeting the cost of programs and studies to control the communicable diseases and eliminated reference to purchase of vaccines and the use of grants for salaries and expenses of personnel and to the authority of the Surgeon General.

Subsec. (b). Pub. L. 91–464 substituted definitions of "communicable disease control program" and "State" for definition of "immunization program".

Subsec. (c). Pub. L. 91–464 substituted reference to Secretary for reference to Surgeon General and omitted

provisions relating to the purchasing and furnishing of vaccines and the requirement of obtaining assurances from the recipients of grants.

Subsec. (d). Pub. L. 91-464 substituted reference to Secretary for reference to Surgeon General and omitted reference to Public Health Service.

Subsec. (e). Pub. L. 91-464 eliminated reference to title V of the Social Security Act and substituted provisions for the use of funds for the conduct of communicable disease control programs for provisions for the purchase of vaccine or for organizing, promoting, conducting, or participating in immunization programs.

Subsecs. (f) and (g). Pub. L. 91-464 added subsecs. (f) and (g).

1965—Subsec. (a). Pub. L. 89-109, § 2 (a), (b), (d) (1), inserted "and each of the next three fiscal years", substituted "any fiscal year ending prior to July 1, 1968" for "the fiscal years ending June 30, 1963, and June 30, 1964", "tetanus, and measles" for "and tetanus", "of preschool age" for "under the age of five years", and "immunization" for "intensive community vaccination", and permitted grants to be used to pay costs in connection with immunization of other infectious diseases.

Subsec. (b). Pub. L. 89-109, § 2 (c), (d)(1), substituted "against the diseases referred to in subsection (a) of this section" for "against poliomyelitis, diphtheria, whooping cough, and tetanus", "of preschool age" for "who are under the age of five years" and "immunization" for "intensive community vaccination" in two instances.

Subsec. (c). Pub. L. 89-109, § 2 (d)(1), (e), inserted "on the basis of estimates" and "(with necessary adjustments on account of underpayments or overpayments)" in par. (1), and substituted "immunization" for "intensive community vaccination" in pars. (2) and (3).

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91-464 provided: "That this Act [amending this section] may be cited as the 'Communicable Disease Control Amendments of 1970'."

SHORT TITLE

Section 1 of Pub. L. 87-868 provided that Pub. L. 87-868, which enacted this section, may be cited as the "Vaccination Assistance Act of 1962."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 247c. Repealed. Pub. L. 89-749, § 6, Nov. 3, 1966, 80 Stat. 1190

Section, act July 1, 1944, ch. 373, title III, § 318, as added Aug. 18, 1964, Pub. L. 88-443, § 2, 78 Stat. 447, related to grants for assisting in the areawide planning of health and related facilities.

EFFECTIVE DATE OF REPEAL

Repeal of section effective July 1, 1967, see section 6 of Pub. L. 89-749, set out as a note under section 247a of this title.

PART C.—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

§ 248. Control and management of hospitals; furnishing prosthetic and orthopedic devices; transfer of patients; disposal of articles produced by patients; disposal of money and effects of deceased patients; payment of burial expenses.

The Surgeon General, pursuant to regulations, shall—

(a) Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c) Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station. (July 1, 1944, ch. 373, title III, § 321, 58 Stat. 695; June 25, 1948, ch. 654, § 2, 62 Stat. 1017.)

AMENDMENTS

1948—Subsec. (a). Act June 25, 1948, § 2(a), continued the authority of the Service to furnish tobacco to patients being treated by it.

Subsec. (e). Act June 25, 1948, § 2(b), added subsec. (e) to provide authority to pay certain burial expenses.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 260a of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 24-614 of the District of Columbia Code.

§ 249. Medical care and treatment of seamen and certain other persons; foreign seamen; certain quarantined persons; temporary treatment in emergency cases; authorization for outside treatment.

(a) The following persons shall be entitled, in accordance with regulations, to medical, surgical, and dental treatment and hospitalization without charge at hospitals and other stations of the Service:

(1) Seamen employed on vessels of the United States registered, enrolled, and licensed under the maritime laws thereof, other than canal boats engaged in the coasting trade;

(2) Seamen employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration;

(3) Seamen, not enlisted or commissioned in the military or naval establishments, who are employed on State school ships or on vessels of the United States Government of more than five tons' burden;

(4) Cadets at State maritime academies or on State training ships;

(5) Seamen on vessels of the Mississippi River Commission and, upon application of their commanding officers, officers and crews of vessels of the Fish and Wildlife Service;

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Cadet Corps;

(7) Seamen-trainees, while participating in maritime training programs to develop or enhance their employability in the maritime industry; and

(8) Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services performed by seamen employed on such vessel or on vessels engaged in similar operations.

(b) When suitable accommodations are available, seamen on foreign-flag vessels may be given medical, surgical, and dental treatment and hospitalization on application of the master, owner, or agent of the vessel at hospitals and other stations of the Service at rates fixed by regulations. All expenses connected with such treatment, including burial in the event of death, shall be paid by such master, owner, or agent. No such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed to the Collector of Customs.

(c) Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

(d) Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted thereto for temporary treatment and care in case of emergency.

(e) Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) of this section may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made. (July 1, 1944, ch. 373, title III, § 322, 58 Stat. 696; June 25, 1948, ch. 654, § 3, 62 Stat. 1018; Aug. 13, 1964, Pub. L. 88–424, 78 Stat. 398; Dec. 5, 1967, Pub. L. 90–174, § 10(c), 81 Stat. 541.)

AMENDMENTS

1967—Subsec. (a)(7). Pub. L. 90–174 substituted provision for entitlement to treatment and hospitalization of seamen-trainees, while participating in maritime training programs to develop or enhance their employability in the maritime industry, for provision for such entitlement of employees and noncommissioned officers in the field service of the Public Health Service when injured or taken sick in line of duty.

1964—Subsec. (a). Pub. L. 88–424 added par. (8).

1948—Subsec. (e). Act June 25, 1948, permitted the Service to provide for the care and treatment of individuals detained in accordance with our quarantine laws.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by former sections 1 and 2 of 1950 Reorg. Plan No. 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, The Immigration and Naturalization Service, referred to in this section, is a bureau in the Department of Justice.

TERMINATION OF WAR SHIPPING ADMINISTRATION

By section 202 of act July 8, 1946, ch. 543, Title 2, 60 Stat. 501, the War Shipping Administration was terminated as of Sept. 1, 1946, and all its functions, powers, duties, etc., transferred to the United States Maritime Commission for the period from Sept. 1, 1946, to Dec. 31, 1946, for the purpose of liquidating the Administration.

FOREIGN SEAMEN

Section 710 (c) of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which gave foreign seamen the same benefits as accorded seamen employed on United States vessels under subsec. (a) (1) of this section, was repealed effective Jan. 25, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, except for treatment of seamen, see section 2651 et seq. of this title.

United States Maritime Service administrative enrollees acquiring civil service status not entitled to health benefits of this section, see section 1126 of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section referred to in sections 220, 265 of this title; title 33 section 763c; title 46 section 11126.

§ 250. Medical care and treatment of Federal prisoners.

The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by sections 751 and 752 of Title 18, in penal and correctional institutions of the United States. (July 1, 1944, ch. 373, title III, § 323, 58 Stat. 697.)

REFERENCES IN TEXT

Sections 751 and 752 of Title 18, referred to in the text, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are now covered by section 4005 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other

officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

Transfer of appropriations for Federal Prison System to Public Health Service for expenditure for medical relief for inmates, see section 250a of this title.

§ 250a. Same; transfer of appropriations.

There may be transferred from the appropriation for the Federal Prison System to the Public Health Service such amounts as may be necessary in the discretion of the Attorney General, for direct expenditure by that Service for medical relief for inmates of Federal penal and correctional institutions. (Pub. L. 91-472, title II, § 201, Oct. 21, 1970, 84 Stat. 1047.)

CODIFICATION

Section was enacted as part of the Department of Justice Appropriation Act, 1971, and not as part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service of the Surgeon General of the Public Health Service and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1969—Pub. L. 91-153, title II, § 201, Dec. 24, 1969, 83 Stat. 410.

1968—Pub. L. 90-470, title II, § 201, Aug. 9, 1968, 82 Stat. 675.

1967—Pub. L. 90-133, title II, § 201, Nov. 8, 1967, 81 Stat. 418.

1966—Pub. L. 89-797, title II, § 201, Nov. 8, 1966, 80 Stat. 1487.

1965—Pub. L. 89-164, title II, § 201, Sept. 2, 1965, 79 Stat. 628.

1964—Pub. L. 88-527, title II, § 201, Aug. 31, 1964, 78 Stat. 719.

1963—Pub. L. 88-245, title II, § 201, Dec. 30, 1963, 77 Stat. 783.

1962—Pub. L. 87-843, title II, § 201, Oct. 18, 1962, 76 Stat. 1088.

1961—Pub. L. 87-264, title II, § 201, Sept. 21, 1961, 75 Stat. 553.

1960—Pub. L. 86-678, title II, § 201, Aug. 31, 1960, 74 Stat. 563.

1959—Pub. L. 86-84, title II, § 201, July 13, 1959, 73 Stat. 189.

1958—Pub. L. 85-474, title II, § 201, June 30, 1958, 72 Stat. 252.

1957—Pub. L. 85-49, title II, § 201, June 11, 1957, 71 Stat. 62.

1956—June 20, 1956, c. 414, title II, § 201, 70 Stat. 307.

1955—July 7, 1955, c. 279, title II, § 201, 69 Stat. 273.

§ 251. Medical examination and treatment of Federal employees; medical care at remote stations.

(a) The Surgeon General is authorized to provide at institutions, hospitals, and station of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under the United States Employees' Compensation Act and extensions thereof. The Surgeon General may also provide for making medical examinations of—

(1) employees of the Alaska Railroad and employees of the Federal Government for retirement purposes;

(2) employees in the Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the longshoremen's and Harbor Workers' Compensation Act, as amended, as requested by any deputy commissioner thereunder.

(b) The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in section 8901(1) of Title 5) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. Such employees and their dependents who are not entitled to this care and treatment under any other provision of law shall be charged for it at rates established by the Secretary to reflect the reasonable cost of providing the care and treatment. Any payments pursuant to the preceding sentence shall be credited to the applicable appropriation to the Public Health Service for the year in which such payments are received. (July 1, 1944, ch. 373, title III, § 324, 58 Stat. 697; Dec. 5, 1967, Pub. L. 90-174, § 10(a), (b), 81 Stat. 540.)

REFERENCES IN TEXT

The United States Employees' Compensation Act, referred to in subsec. (a), is now covered by chapter 81 of Title 5, Government Organization and Employees.

The Longshoremen's and Harbor Workers' Compensation Act, as amended, referred to in subsec. (a)(4), is classified to chapter 18 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-174, § 10(a), designated existing provisions as subsec. (a) and redesignated cls. (a)—(d) as cls. (1)—(4), respectively.

Subsec. (b). Pub. L. 90-174, § 10(b), added subsec. (b).

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (b) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90-174, set out as a note under section 201 of this title.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

§ 252. Medical examination of aliens.

The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Secretary. (July 1, 1944, ch. 373, title III, § 325, 58 Stat. 697;

1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 253. Medical services to Coast Guard, Coast and Geodetic Survey, and Public Health Service; examination of personnel of Service assigned to Coast Guard or Coast and Geodetic Survey.

(a) Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard on active duty, including those on shore duty and those on detached duty; and Regular, and temporary members of the United States Coast Guard Reserve when on active duty;

(2) commissioned officers, ships' officers, and members of the crews of vessels of the United States Coast and Geodetic Survey on active duty, including those on shore duty and those on detached duty; and

(3) commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty;

shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the Coast and Geodetic Survey.

(b) Repealed. Pub. L. 88–71, § 2(a), July 19, 1963, 77 Stat. 83.

(c) The Service shall provide all services referred to in subsection (a) of this section required by the Coast Guard or Coast and Geodetic Survey and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion and retirement, and officers of the Service assigned to duty on Coast Guard or Coast and Geodetic Survey vessels may extend aid to the crews of American vessels engaged in deep-sea fishing. (July 1, 1944, ch. 373, title III, § 326, 58 Stat. 697; June 7, 1956, ch. 374, § 306(3), 70 Stat. 254; Apr. 8, 1960, Pub. L. 86–415, § 5(d), 74 Stat. 34; July 19, 1963, Pub. L. 88–71, § 2, 77 Stat. 83.)

AMENDMENTS

1963—Subsec. (b). Pub. L. 88–71, § 2(a), repealed subsec. (b), which provided for treatment of dependents of personnel, and is now covered by section 253a(b) of this title.

Subsec. (c). Pub. L. 88–71, § 2(b), inserted "or Coast and Geodetic Survey" following "Coast Guard" in two instances.

1960—Subsec. (a). Pub. L. 86–415 eliminated provisions which authorized medical, surgical, and dental care and hospitalization for retired personnel of the Coast Guard, Coast and Geodetic Survey, and the Public Health Service.

1956—Subsec. (b). Act June 7, 1956, repealed subsec. (b) except insofar as it related to dependent members of families of ships' officers and members of crews of vessels of the Coast and Geodetic Survey.

EFFECTIVE DATE OF 1956 AMENDMENT

Partial repeal of subsec. (b) of this section by act June 7, 1956, was made effective six months after June 7, 1956, by section 307 of act June 7, 1956.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration, and all functions of the Survey, not already transferred by 1950 Reorg. Plan No. 5, were transferred to the Secretary of Commerce.

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Members of Coast Guard Reserve entitled to benefits of subsecs. (a) and (b) of this section, see section 755 of Title 14, Coast Guard.

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 14, section 755.

§ 253a. Medical services to retired personnel of Coast and Geodetic Survey; treatment of dependents of personnel; per diem hospitalization charges; identification of persons eligible for treatment.

(a) Subject to regulations of the President, retired ships' officers and retired members of the crews of vessels of the Coast and Geodetic Survey shall be entitled to medical, surgical, and dental treatment and hospitalization at facilities of the Public Health

Service: *Provided,* That the ships' officer or crew member, (1) was on active duty as a vessel employee of the Coast and Geodetic Survey on July 1, 1963, or on the date of enactment of this Act, whichever is later, and his employment as a vessel employee was continuous from that date until retirement, or (2) was retired as a vessel employee of the Coast and Geodetic Survey on or before July 1, 1963, or on the date of enactment of this Act, whichever is later.

(b) Subject to regulations of the President, dependent members of families (as defined in such regulations) of ships' officers and members of crews of vessels of the Coast and Geodetic Survey, whether such, ships' officers and members of crew are on active duty or retired, shall be furnished medical advice and outpatient treatment by the Public Health Service at its hospitals and relief stations and, if suitable accommodations are available, they shall also be furnished hospitalization at hospitals of the Public Health Service: *Provided,* That the ships' officer or crew member (1) was on active duty as a vessel employee of the Coast and Geodetic Survey on July 1, 1963, or on the date of enactment of this Act, whichever is later, and his employment as a vessel employee has been continuous from that time, or (2) was on active duty as a vessel employee of the Coast and Geodetic Survey on July 1, 1963, or on the date of enactment of this Act, whichever is later, and his employment as a vessel employee was continuous from that time until retirement, or (3) was retired as a vessel employee of the Coast and Geodetic Survey on or before July 1, 1963, or on the date of enactment of this Act, whichever is later. When dependent members of families are hospitalized, a per diem charge, at such uniform rate as may be prescribed from time to time for the hospitalization of dependents of members of the uniformed services at hospitals of the uniformed services pursuant to section 1078(a) of Title 10 shall be made.

(c) The Coast and Geodetic Survey shall furnish proper identification to those persons entitled to medical treatment under the provisions of this section. (Pub. L. 88–71, § 1, July 19, 1963, 77 Stat. 83.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsecs. (a) and (b), means July 19, 1963, the date on which Pub. L. 88–71 was approved.

CODIFICATION

Section was not enacted as part of the Public Health Service Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8319, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration, and all functions of the Survey were transferred to the Secretary of Commerce.

EX. ORD. NO. 11160. REGULATIONS RELATING TO MEDICAL CARE FOR RETIRED PERSONNEL OF COAST AND GEODETIC SURVEY AND THEIR DEPENDENTS

Ex. Ord. No. 11160, July 6, 1964, 29 F.R. 9315, provided:

By virtue of the authority vested in me by the first section of the Act of July 19, 1963 (Public Law 88–71, 77 Stat. 83, 42 U.S.C. 253a) [this section], and as President of the United States, I hereby prescribe the following regulations relating to the medical care of certain retired personnel of the Coast and Geodetic Survey and dependents of Coast and Geodetic Survey ships' officers and crew members, both active and retired.

SECTION 1. *Definitions.* As used in these regulations, the term:

(1) "Retired ships' officer and retired crew member" means a noncommissioned ships' officer or crew member of a vessel of the Coast and Geodetic Survey who either was on active duty as a vessel employee on July 19, 1963, and whose employment as such vessel employee was continuous from that date until the date of his retirement, or who had retired as a vessel employee on or before July 19, 1963.

(2) "Active duty ships' officer and active duty crew member" means a noncommissioned ships' officer or crew member on active duty as a vessel employee of the Coast and Geodetic Survey on July 19, 1963, and whose employment as such vessel employee has been continuous from that time.

(3) "Dependent members of families", with respect to active duty or retired ships' officers or crew members, means:

(A) the lawful wife;

(B) the unmarried legitimate child, including an adopted child or stepchild, who has not passed his twenty-first birthday; and

(C) the father or mother, if in fact dependent upon such active duty or retired ships' officer or crew member for over one-half of his or her support.

(4) "Relief stations" means Public Health Service outpatient clinics and outpatient offices.

(5) "Outpatient clinic" means a full-time outpatient medical facility, operated in Federally owned or leased space under the supervision of a commissioned medical officer or a full-time civil service medical officer (formerly known as a Second-Class Relief Station).

(6) "Outpatient office" means a part-time outpatient facility serving all classes of legal beneficiaries, located in other than Federal space, and in the charge of a local private physician under contract to the Service to provide medical care on an annual or fee basis (formerly known as a Third-Class Relief Station).

SEC. 2. *Persons entitled to treatment.* The following persons shall be entitled to medical care under these regulations:

(1) Retired ships' officers and retired crew members of the Coast and Geodetic Survey;

(2) Dependent members of families of persons described in paragraph (1) of this section;

(3) Dependent members of families of active duty ships' officers and crew members of the Coast and Geodetic Survey.

SEC. 3. *Application for treatment; evidence of eligibility.* Persons entitled to medical care under Section 2 of these regulations, when applying to Public Health

Service medical care facilities for medical care, shall produce proper identification, as issued to them by the Coast and Geodetic Survey, and such identification shall be accepted as evidence of eligibility for such medical care by the Service.

SEC. 4. *Extent of treatment; retired ships' officers and crew members.* Subject to the limitation imposed by paragraph (2) of this section, retired ships' officers and crew members entitled to medical care under these regulations shall be furnished:

(1) Medical, surgical, and dental treatment at hospitals, outpatient clinics, and outpatient offices of the Service, and hospitalization at hospitals of the Service. The Service will not be responsible for defraying the cost of hospitalization, medical services, and supplies procured elsewhere.

(2) Dental treatment shall be furnished to the extent that facilities and services at hospitals and outpatient clinics of the Service having full-time dental officers on duty are available to provide such treatment. At other Service facilities, dental treatment shall be limited to emergency measures necessary to relieve pain.

SEC. 5. *Extent of treatment; dependent members of families; charges.* (a) Dependent members of families shall be furnished medical advice and outpatient treatment at hospitals, outpatient clinics, and outpatient offices of the Service and, if suitable accommodations are available, shall be furnished hospitalization at hospitals of the Service. The Service will not be responsible for defraying the cost of hospitalization, medical services, and supplies procured elsewhere.

(b) For the purpose of this section—

(1) Medical advice and outpatient treatment may include such services and supplies as the Medical Officer in Charge may deem to be necessary for reasonable and adequate treatment.

(2) Hospitalization shall be furnished when, in the opinion of the Medical Officer in Charge, suitable accommodations are available and the condition of the patient is such as to require hospitalization. When hospitalization is authorized, it may include such services and supplies as the Medical Officer in Charge may deem to be necessary for reasonable and adequate treatment.

(c) Charges shall be made for hospitalization of dependent members of families at the same per diem rate as is prescribed for dependents of members of the uniformed services pursuant to section 1078(a) of Title 10 of the United States Code.

(d) Dental treatment may be furnished to the extent that facilities and services at hospitals and outpatient clinics of the Service having full-time dental officers are available to provide such treatment. Dental care will not be furnished under any circumstances in private facilities at the expense of the Service.

SEC. 6. *Prior orders.* Executive Order No. 9703 of March 12, 1946, prescribing regulations relating to medical care of certain personnel of the Coast Guard, Coast and Geodetic Survey, Public Health Service, and former Lighthouse Service, is hereby amended to the extent necessary to conform it to the provisions of this order.

LYNDON B. JOHNSON

§ 254. Interdepartmental work.

Nothing contained in this part shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work of services, requested in accordance with section 686 of Title 31, or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Department of Health, Education, and Welfare for the Service in accordance with that section. (July 1, 1944, ch. 373, title III, § 327, 58 Stat. 697; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3; 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 254a. Sharing of medical care facilities and resources.

(a) Definitions.

For purposes of this section—

(1) the term "specialized health resources" means health care resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the health care community or are subject to maximum utilization only through mutual use;

(2) the term "hospital", unless otherwise specified, includes (in addition to other hospitals) any Federal hospital.

(b) Statement of purpose; agreements or arrangements; reciprocity; reimbursement; credits.

For the purpose of maintaining or improving the quality of care in Public Health Service facilities and to provide a professional environment therein which will help to attract and retain highly qualified and talented health personnel, to encourage mutually beneficial relationships between Public Health Service facilities and hospitals and other health facilities in the health care community, and to promote the full utilization of hospitals and other health facilities and resources, the Secretary may—

(1) enter into agreements or arrangements with schools of medicine, and with other health schools, agencies, or institutions, for such interchange or cooperative use of facilities and services on a reciprocal or reimbursable basis, as will be of benefit to the training or research programs of the participating agencies; and

(2) enter into agreements or arrangements with hospitals and other health care facilities for the mutual use or the exchange of use of specialized health resources, and providing for reciprocal reimbursement.

Any reimbursement pursuant to any such agreement or arrangement shall be based on charges covering the reasonable cost of such utilization, including normal depreciation and amortization costs of equipment. Any proceeds to the Government under this subsection shall be credited to the applicable appropriation of the Public Health Service for the year in which such proceeds are received. (July 1, 1944, ch. 373, title III, § 328, as added Dec. 5, 1967, Pub. L. 90–174, § 7, 81 Stat. 539.)

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

§ 254b. Assignment of medical and other health personnel to critical need areas.

(a) Statement of purpose.

It shall be the function of an identifiable administrative unit within the Service to improve the delivery of health services to persons living in communities and areas of the United States where health personnel and services are inadequate to meet the health needs of the residents of such communities and areas.

(b) Procedure; determination of need; certification; scope of care and services; fees; payment by agency or third party responsible for not providing required services; deposit of funds collected.

Upon request of a State or local health agency or other public or nonprofit private health organization, in an area designated by the Secretary as an area with a critical health manpower shortage, to have health personnel of the Service assigned to such area, and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary is authorized, whenever he deems such action appropriate, to assigned commissioned officers and other personnel of the Service to provide, under regulations prescribed by the Secretary, health care and services for persons residing in such areas. Such care and services shall be provided in connection with (1) direct health care programs carried out by the Service; (2) any direct health care program carried out in whole or in part with Federal financial assistance; or (3) any other health care activity which is in furtherance of the purposes of this section. Any person who receives a service provided under this section shall be charged for such service at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary may provide for the furnishing of such service at a reduced rate or without charge. If a Federal agency or a State or local government agency or other third party would be responsible for all or part of the cost of the service provided under this section if such service had not been provided under this section, the Secretary shall collect from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(c) Assigned personnel as not included within personnel quota of Department of Health, Education, and Welfare.

Commissioned officers and other personnel of the Service assigned to areas designated under subsection (b) of this section shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

(d) Utilization of health facilities.

Notwithstanding any other provision of law, the Secretary, to the extent feasible, may make such arrangements as he determines necessary to enable officers and other personnel of the Service in providing care and services under subsection (b) of this section to utilize the health facilities of the area to be served. If there are no such facilities in such area, the Secretary may arrange to have such care and services provided in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of such care and services.

(e) National Advisory Council on Health Manpower Shortage Areas; establishment; membership; appointment; functions; term of office; compensation and travel expenses.

(1) There is established a council to be known as the National Advisory Council on Health Manpower Shortage Areas (hereinafter in this section referred to as the "Council"). The Council shall be composed of fifteen members appointed by the Secretary as follows:

(A) Four members shall be appointed from the general public, representing the consumers of health care.

(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

(C) Three members shall be appointed from State health or health planning agencies.

(D) Three members shall be appointed from the Service, at least two of whom shall be commissioned officers of the Service.

(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs.

The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section.

(2) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently.

(f) Duties and functions of Secretary.

It shall be the function of the Secretary—

(1) to establish guidelines with respect to how the Service shall be utilized in areas designated under this section;

(2) to select commissioned officers of the Service and other personnel for assignment to the areas designated under this section; and

(3) to determine which communities or areas may receive assistance under this section taking into consideration—

(A) the need of the community or area for health services provided under this section;

(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Service in providing effective health services to residents of the community or area;

(C) the recommendations of any agency or organization which may be responsible for the development, under section 246(b) of this title, of a comprehensive plan covering all or any part of the area or community involved; and

(D) recommendations from the State medical, dental, and other health associations and from other medical personnel of the community or area considered for assistance under this section.

(g) Authorization of appropriations.

To carry out the purposes of this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $20,000,000 for the fiscal year ending June 30, 1972; and $30,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title III, § 329, as added Dec. 31, 1970, Pub. L. 91–623, § 2, 84 Stat. 1868.)

SHORT TITLE

Section 1 of Pub. L. 91–623 provided: "That this Act [which enacted this section and section 233 of this title] may be cited as the 'Emergency Health Personnel Act of 1970'."

PART D.—LEPERS

§ 255. Reception in any hospital; payment of travel expenses of indigent lepers.

The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 256 or 264 of this title, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes, including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service, the Surgeon General is authorized and directed to make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana. (July 1, 1944, ch. 373, title III, § 331, 58 Stat. 698; June 25, 1948, ch. 654, § 4, 62 Stat. 1018; June 25, 1952, ch. 460, 66 Stat. 157; July 12, 1960, Pub. L. 86–624, § 29(b), 74 Stat. 419.)

AMENDMENTS

1960—Pub. L. 86–624 eliminated words, "Territory, or the District of Columbia" following "proper health authority of any State", and substituted "Board of Health of Hawaii" for "Board of Health of the Territory of Hawaii."

1952—Act June 25, 1952, provided for payments to the Hawaiian Board of Health for expenditures made by them in the care and treatment of patients.

1948—Act June 25, 1948, authorized payment of travel expenses of indigent leper patients.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86–624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86–624, set out as a note under section 645 of Title 20, Education.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3; 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 256. Apprehension, detention, treatment, and release.

The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy. (July 1, 1944, ch. 373, title III, § 332, 58 Stat. 698.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 255 of this title.

PART E.—NARCOTICS ADDICTS AND OTHER DRUG ABUSERS

AMENDMENTS

1970—Pub. L. 91–513, title I, § 2(a)(6), Oct. 27, 1970, 84 Stat. 1240, inserted reference to other drug abusers in part heading.

§ 257. Care and treatment.

(a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Correction Act, addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United

States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision.

(b) Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Commissioner of the District of Columbia or his designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person. (July 1, 1944, ch. 373, title III, § 341, 58 Stat. 698; May 8, 1954, ch. 195, § 3, 68 Stat. 80; July 24, 1956, ch. 676, title III, § 302(a), 70 Stat. 622; Nov. 8, 1966, Pub. L. 89–793, title VI, § 601, 80 Stat. 1449; Oct. 27, 1970, Pub. L. 91–513, title I, § 2(a)(1), 84 Stat. 1240.)

REFERENCES IN TEXT

The Narcotic Addict Rehabilitation Act of 1966, referred to in subsec. (a), is classified to sections 3411 et seq. and 3441 et seq. of this title, section 4251 et seq. of Title 18, Crimes and Criminal Procedure, and section 2901 et seq. of Title 28, Judiciary and Judicial Procedure.

The Federal Youth Corrections Act, referred to in subsec. (a), is classified to chapter 402 (section 5005 et seq.) of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section is also set out in D.C. Code, § 24–613.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513 inserted provision for the voluntary submission for treatment of persons with drug abuse and drug dependence problems.

1966—Subsec. (a). Pub. L. 89–793 designated existing provisions as subsec. (a), substituted care and treatment provisions for persons who are civilly committed to treatment or convicted of Federal offenses and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to custody of Attorney General pursuant to provisions of Federal Youth Corrections Act, and addicts convicted of Federal offenses and who are not sentenced to treatment under such Act of 1966 for prior care and treatment provisions for addicts who have been or are hereafter convicted of Federal offenses, deleted language for care and treatment for addicts who are committed to the Service or to a hospital thereof pursuant to section 260a of this title, and provided for care and treatment at places other than hospitals of the Service where authorized by other provisions of law and for conditional release of patients and aftercare under supervision.

Subsec. (b). Pub. L. 89–793 designated existing provisions as subsec. (b).

1956—Act July 24, 1956, required the Surgeon General to furnish to the Commissioners, or their designated agent, the name, address, and any other useful information relating to persons who voluntarily submit themselves for treatment and who, at the time of submission, are residents of the District of Columbia.

1954—Act May 8, 1954, inserted in first sentence the reference to addicts who are committed to the Service or to a hospital thereof pursuant to section 260a of this title.

TRANSFER OF FUNCTIONS

References to the Board of Commissioners of the District of Columbia have been changed to the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, 81 Stat. 948, which transferred the functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the Appendix to Title 5, Government Organization and Employees. See, also, effective date note under such plan.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3441 of this title.

§ 257a. Medical treatment of narcotics addiction; report to Congress.

The Secretary of Health, Education, and Welfare, after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress. (Pub. L. 91–513, title I, § 4, Oct. 27, 1970, 84 Stat. 1241).

CODIFICATION

Section was not enacted as part of the Public Health Service Act, which comprises this chapter.

§ 258. Employment; establishment of industries, plants, etc.; sale of commodities; disposition of proceeds.

Narcotic addicts or other persons with drug abuse and drug dependence problems in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as

he may deem proper. The Secretary of Health, Education, and Welfare shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund. (July 1, 1944, ch. 373, title III, § 342, 58 Stat. 699; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 27, 1970, Pub. L. 91–513, title I, § 2(a)(2)(A), 84 Stat. 1240.)

AMENDMENTS

1970—Pub. L. 91–513 inserted reference to persons with drug abuse and drug dependence problems.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 258a. Transfer of balances in working capital fund, narcotic hospitals, to surplus fund.

As of June 30, 1947, and the end of each fiscal year thereafter any balances in the "Working capital fund, narcotic hospitals," in excess of $150,000 shall be transferred to the surplus fund of the Treasury. (July 8, 1947, ch. 210, title II, § 201, 61 Stat. 269.)

CODIFICATION

Section was enacted as part of the Federal Security Agency Appropriation Act, 1948, and not as part of the Public Health Service Act which comprises this chapter.

§ 259. Convict addicts or other persons with drug abuse or drug dependence problems.

(a) Transfers to and from hospitals; duty of prosecuting officers to report convicted persons believed to be addicts.

The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems, if accommodations are available, all addicts or other persons with drug abuse and drug dependence problems who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict or other person with a drug abuse or other drug dependence problem shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either besause of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict or other person with a drug abuse or other drug dependence problem whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict or other person with a drug abuse or other drug dependence problem. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict or other person with a drug abuse or other drug dependence problem, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, drug abuse, or drug dependence, and the nature of the offense committed. Whenever an alien addict or other person with a drug abuse or other drug dependence problem transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution form which he came he shall be deported by the authority vested by law with power over deportation.

(b) Parole of inmates; commutation allowance for good conduct.

The provisions of sections 710 to 712a of Title 18, regulating commutation of sentence for good conduct of United States prisoners, section 744h of Title 18, regulating commutation of sentence for employment in industry, and sections 714 to 723c of Title 18, relating to parole, shall be applicable to any narcotic addict or other person with a drug abuse or other drug dependence problem confined in any institution in execution of a judgment or sentence upon conviction of an offense against the United States; except that no narcotic addict or other person with a drug abuse or other drug dependence problem confined in any institution, whether or not an institution of the Public Health Service, shall be

released by reason of commutation of sentence or parole until the Surgeon General shall have certified that such individual is no longer an addict or other person with a drug abuse or other drug dependence problem.

(c) Discharge; further treatment.

Not later than one month prior to the expiration of the sentence of any addict or other person with a drug abuse or other drug dependence problem confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict or other person with a drug abuse or other drug dependence problem and that he may by further treatment in a Service hospital be cured of his addiction, drug abuse, or drug dependence, the addict or other person with a drug abuse or other drug dependence problem shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The addict or other person with a drug abuse or other drug dependence problem may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict or other person with a drug abuse or other drug dependence problem may be given such further treatment as is necessary to cure him of his addiction, drug abuse, or drug dependence.

(d) Gratuities and transportation furnished upon discharge or release on parole.

Every person convicted of an offense against the United States, upon discharge, or upon release on parole, from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Admission of probationers to hospitals for treatment.

Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict or other person with a drug abuse or other drug dependence problem, shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided,* That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts or other persons with drug abuse and drug dependence problems discharged from hospitals of the Service. (July 1, 1944, ch. 373, title III, § 343, 58 Stat. 699; Oct. 27, 1970, Pub. L. 91–513, title I, § 2(a)(2)(A), (3), (4), 84 Stat. 1240.)

CODIFICATION

References in subsec. (b) to specified sections of Title 18 were, in the original, "the Act of June 21, 1902, as amended (U.S.C., 1940 edition, title 18, secs. 710–712a)", "the Act of June 25, 1910, as amended (U.S.C., 1940 edition, title 18, secs. 714–723c)", and "section 8 of the Act of May 27, 1930 (U.S.C., 1940 edition, title 18, section 744h)". Such laws and parts of laws were repealed in the general revision of title 18 by act June 25, 1948, c. 645, 62 Stat. 683, and are now covered by sections 3570, 4161, 4162, 4164, 4166, 4201–4207, and 4281 of Title 18.

AMENDMENTS

1970—Pub. L. 91–513 extended section to cover drug abuse or drug dependence and to cover persons with drug abuse or drug dependence problems.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

CROSS REFERENCES

Discharge from prison, transportation, clothing and money issued, see section 4281 of Title 18, Crimes and Criminal Procedure.

§ 260. Addicts and persons with drug abuse or drug dependence problems; admission to hospitals as voluntary patients; examination; payment of charges; length of confinement; forfeiture of civil rights.

(a) Any addict or other person with a drug abuse or other drug dependence problem, whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems.

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict or other person with a drug abuse or other drug dependence problem, whether by treatment in a hospital of the Service he may probably be cured of his addiction, drug abuse, or drug dependence, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict or other persons with a drug abuse or other drug dependence problem shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts or other persons with drug abuse and

drug dependence problems convicted of offenses against the United States have been admitted. Any such addict or other person with a drug abuse or other drug dependence problem may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts or other persons with drug abuse and drug dependence problems admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict or other person with a drug abuse or other drug dependence problem who is discharged as cured.

(c) An addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section, including any addict or other person with a drug abuse or other drug dependence problem, not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the addiction, drug abuse, or drug dependence or until such time as he ceases to be an addict or other person with a drug abuse or other drug dependence problem.

(d) Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this chapter, be confidential and shall not be divulged. (July 1, 1944, ch. 373, title III, § 344, 58 Stat. 701; June 25, 1948, ch. 654, § 5, 62 Stat. 1018; July 24, 1956, ch. 676, title III, § 302 (b), 70 Stat. 622; Oct. 27, 1970, Pub. L. 91–513, title I, § 2(a)(2)(A), (3), (4), 84 Stat. 1240.)

AMENDMENTS

1970—Pub. L. 91–513 extended coverage of section to cover drug abuse or drug dependence and to cover persons with drug abuse or drug dependence problems.

1956—Subsec. (d). Act July 24, 1956, substituted "shall, except as otherwise provided by this chapter, be confidential" for "shall be confidential".

1948—Subsec. (b). Act June 25, 1948, added last sentence to continue authority to provide transportation for indigent narcotics who are discharged as cured.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 257 of this title.

§ 260a. Admission of addicts committed from District of Columbia.

(a) Conditions.

The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 248 (b) of this title, any addict, who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for such care and treatment. No such addict shall be admitted unless (1) committed prior to July 1, 1958; (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than one hundred; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.

(b) Discharge from hospitals; notice; delivery to court.

Any person admitted to a hospital of the Service pursuant to subsection (a) of this section shall be discharged therefrom (1) upon order of the United States District Court for the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the Superior Court of the District of Columbia and shall deliver such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress).

(c) Authority of Surgeon General and other officers.

With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a) of this section, the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

(d) Payment of costs; determination; disposition of moneys; availability of appropriations.

The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) of this section shall be a charge upon the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all or particular classes of patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District

of Columbia, including subsistence allowance while traveling, for any such addict who is discharged. (July 1, 1944, ch. 373, title III, § 345, as added May 8, 1954, ch. 195, § 2, 68 Stat. 79, and amended July 24, 1956, ch. 676, title III, § 302 (c), 70 Stat. 622; July 29, 1970, Pub. L. 91–358, title I, § 155(c)(32), 84 Stat. 572.)

REFERENCES IN TEXT

The act of June 24, 1953 (Public Law 76, Eighty-third Congress), referred to in subsecs. (a) and (b), is classified to section 24–601 et seq. of the District of Columbia Code.

CODIFICATION

Section is also set out in D.C. Code, § 24–614.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–358 substituted "Superior Court of the District of Columbia" for "United States District Court for the District of Columbia".

1956—Subsec. (a). Act July 24, 1956, substituted "July 1, 1958" for "July 1, 1956", and "one hundred" for "fifty".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–358 effective the first day of the seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91–358, set out as a note under section 1257 of Title 28, Judiciary and Judicial Procedure.

DECLARATION OF PURPOSE

With respect to enactment of this section and section 261a of this title, and amendment of section 257 of this title, section 1 of act May 8, 1954, as amended by act July 24, 1956, § 303, provided: "In order to afford the District of Columbia the facilities required to carry out the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), as amended [D.C. code, §§ 24–601 to 24–611], and to help it meet its responsibility for the detention, care, and treatment of noncriminal narcotic addicts, it is hereby declared to be the purpose of this Act to authorize the limited use of suitable Public Health Service facilities at the expense of the District of Columbia for such detention, care, and treatment."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 261. Penalties for introducing prohibited articles and substances into hospitals; escaping from, or aiding and abetting escape from hospitals.

(a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, any habit-forming narcotic drug or substance controlled under the Controlled Substances Act, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, and any such person upon the apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years. (July 1, 1944, ch. 373, title III, § 346, formerly § 345, 58 Stat. 701, renumbered May 8, 1954, ch. 195, § 2, 68 Stat. 79, and amended Oct. 27, 1970, Pub. L. 91–513, title I, § 2(a)(2)(A), (5), 84 Stat. 1240.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is set out in section 801 et seq. of Title 21, Food and Drugs.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513, § 2(a)(2), (5), extended section to cover hospitals in which persons with drug abuse and drug dependence problems are cared for and added substances controlled under the Controlled Substances Act to the enumeration of prohibited articles.

Subsecs. (b), (c). Pub. L. 91–513, § 2(a)(2), extended provisions to cover hospitals in which persons with drug abuse or drug dependence problems are treated and cared for.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

§ 261a. Release of patients; determination by Surgeon General.

For purposes of this chapter, an individual shall be deemed cured of his addiction, drug abuse, or drug dependence and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his addiction, drug abuse, or drug dependence or if the Surgeon General determines that his father treatment and care for such purpose would be detrimental to the interests of the Service. (July 1, 1944, ch. 373, title III, § 347, as added May 8, 1954, ch. 195, § 4, 68 Stat. 80, and amended Oct. 27, 1970, Pub. L. 91–513, title I, § 2(a)(4), 84 Stat. 1240.)

CODIFICATION

Section is also set out in D.C. Code, § 24–615.

AMENDMENTS

1970—Pub. L. 91–513, added ", drug abuse, or drugs dependence" following "addiction", in two instances.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 257 of this title.

PART F.—LICENSING OF BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES AND CONTROL OF RADIATION

Subpart 1.—Biological Products

§ 262. Regulation of biological products.

(a) Intrastate and interstate traffic; suspension or revocation of license as affecting prior sales.

No person shall sell, barter, or exchange, or offer for sale, barter, or exchange in the District of Columbia, or send, carry, or bring for sale, barter, or exchange from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession, any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood components or derivative, allergenic product, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries to man, unless (1) such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product has been propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license, issued by the Secretary as hereinafter authorized, to propagate or manufacture, and prepare such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product for sale in the District of Columbia, or for sending, bringing, or carrying from place to place aforesaid; and (2) each package of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product is plainly marked with the proper name of the article contained therein, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected beyond reasonable doubt to yield their specific results. The suspension or revocation of any license shall not prevent the sale, barter, or exchange of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid which has been sold and delivered by the licensee prior to such suspension or revocation, unless the owner or custodian of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid has been notified by the Secretary not to sell, barter, or exchange the same.

(b) Falsely labeling or marking package or container; altering label or mark.

No person shall falsely label or mark any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid so as to falsify such label or mark.

(c) Inspection of establishment for propagation and preparation.

Any officer, agent, or employee of the Department of Health, Education, and Welfare, authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.

(d) Regulations governing licenses.

Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishments for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.

(e) Interference with officers.

No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Penalties for offenses.

Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding $500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Construction with other laws.

Nothing contained in this chapter shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act. (July 1, 1944, ch. 373, title III, § 351, 58 Stat. 702; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 2, 1958, Pub. L. 85-881, § 2, 72 Stat. 1704; Oct. 30, 1970, Pub. L. 91-515, title II, § 291, 84 Stat. 1308.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text of subsec. (g), is classified to chapter 9 of Title 21, Food and Drugs.

AMENDMENTS

1970—Subsecs. (a)-(c). Pub. L. 91-515 added "vaccine, blood, blood component or derivative, allergenic product," following "antitoxin" wherever appearing therein.

1958—Subsec. (d). Pub. L. 85-881 eliminated words "made jointly by the Surgeon General, the Surgeon General of the Army, and the Surgeon General of the Navy, and approved by the Secretary" following "regulations" in first sentence.

TRANSFER OF FUNCTIONS

References to Secretary and Department of Health, Education, and Welfare were substituted for references to Federal Security Administrator and Federal Security Agency respectively pursuant to 1953 Reorg. Plan No. 1, § 5, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency to the Department of Health, Education, and Welfare. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan. No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

CROSS REFERENCES

Regulation of biological products for use in treatment of domestic animals, see sections 151—158 of Title 21, Food and Drugs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263 of this title; title 21 section 392.

§ 263. Preparation of biological products by Service.

(a) The Service may prepare for its own use any product described in section 262 of this title and any product necessary to carrying out any of the purposes of section 241 of this title.

(b) The Service may prepare any product described in section 262 of this title for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section. (July 1, 1944, ch. 373, title III, § 352, 58 Stat. 703.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

Subpart 2.—Clinical Laboratories

§ 263a. Licensing of laboratories.

(a) Definitions.

As used in this section—

(1) the term "laboratory" or "clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body, for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, man;

(2) The term "interstate commerce" means trade, traffic, commerce, transportation, transmission, or communication between any State or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

(b) Prohibition of unlicensed laboratory procedures; small or infrequent operation exemption.

(1) No person may solicit or accept in interstate commerce, directly or indirectly, any specimen for laboratory examination or other laboratory procedures, unless there is in effect a license for such laboratory issued by the Secretary under this section applicable to such procedures.

(2) The Secretary shall by regulation exempt from the provisions of this section laboratories whose operations are so small or infrequent as not to constitute a significant threat to the public health.

(c) Laboratory procedures covered by license.

A license issued by the Secretary under this section may be applicable to all laboratory procedures or only to specified laboratory procedures or categories of laboratory procedures.

(d) Application; information; standards; period of validity; renewal; national accreditation exemption; license fees.

(1) A license shall not be issued in the case of any clinical laboratory unless (A) the application therefor contains or is accompanied by such information as the Secretary finds necessary, and (B) the applicant agrees and the Secretary determines that such laboratory will be operated in accordance with standards found necessary by the Secretary to carry out the purposes of this section. Such standards shall be designed to assure consistent performance by the laboratories of accurate laboratory procedures and services, and shall include, among others, standards to assure—

(i) maintenance of a quality control program adequate and appropriate for accuracy of the laboratory procedures and services;

(ii) maintenance of records, equipment, and facilities necessary to proper and effective operation of the laboratory;

(iii) qualifications of the director of the laboratory and other supervisory professional personnel necessary for adequate and effective professional supervision of the operation of the laboratory (which shall include criteria relating to the extent to which training and experience shall be substituted for education); and

(iv) participation in a proficiency testing program established by the Secretary.

(2) A license issued under this section shall be valid for a period of three years, or such shorter period as the Secretary may establish for any clinical laboratory or any class or classes thereof; and may be renewed in such manner as the Secretary may prescribe. The provisions of this section requiring licensing shall not apply to a clinical laboratory in a hospital accredited by the Joint Commission on the Accreditation of Hospitals or by the American Osteopathic Association, or a laboratory which has been inspected and accredited by such commission or association, by the Commission on Inspection and Accreditation of the College of American Pathologists, or by any other national accreditation body approved for the purpose by the Secretary, but only if the standards applied by such commission, association, or other body in determining whether or not to accredit such hospital or laboratory are equal to or more stringent than the

provisions of this section and the rules and regulations issued under this section, and only if there is adequate provision for assuring that such standards continue to be met by such hospital or laboratory; provided that any such laboratory shall be treated as a licensed laboratory for all other purposes of this section.

(3) The Secretary may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed $125 per annum.

(e) Revocation, suspension, or limitation; notice and hearing; grounds.

A laboratory license may be revoked, suspended, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any laboratory procedure or category of procedures not authorized in the license;

(3) has failed to comply with the standards with respect to laboratories and laboratory personnel prescribed by the Secretary pursuant to this section;

(4) has failed to comply with reasonable requests of the Secretary for any information or materials, or work on materials, he deems necessary to determine the laboratory's continued eligibility for its license hereunder or continued compliance with the Secretary's standards hereunder;

(5) has refused a request of the Secretary or any Federal officer or employee duly designated by him for permission to inspect the laboratory and its operations and pertinent records at any reasonable time; or

(6) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

(f) Legal procedure; imminent hazard to public health; jurisdiction of district court; temporary injunctions or restraining orders; bond; final orders.

Whenever the Secretary has reason to believe that continuation of any activity by a laboratory licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such laboratory is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

(g) Appeals; petitions; record; additional evidence; modified or new findings; jurisdiction of court of appeals; conclusiveness of findings; review by Supreme Court.

(1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of Title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(h) Violations and penalties.

Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

(i) Professional and insurance exemptions.

The provisions of this section shall not apply to any clinical laboratory operated by a licensed physician, osteopath, dentist, or podiatrist, or group thereof, who performs or perform laboratory tests or procedures, personally or through his or their employees, solely as an adjunct to the treatment of his or their own patients; nor shall such provisions apply to any laboratory with respect to tests or other procedures made by it for any person engaged in the business of insurance if made solely for purposes of determining whether to write an insurance contract or of determining eligibility or continued eligibility for payments thereunder.

(j) Utilization of services or facilities of public or private agencies; payments: advances or reimbursement, installments.

In carrying out his functions under this section, the Secretary is authorized, pursuant to agreement, to utilize the services or facilities of any Federal or State or local public agency or nonprofit private

agency or organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as he may determine.

(k) State laws unaffected.

Nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with the provisions of this section or with the rules and regulations issued under this section.

(*l*) State law coverage exemption.

Where a State has enacted or hereafter enacts laws relating to matters covered by this section, which provide for standards equal to or more stringent than the provisions of this section or than the rules and regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section. (July 1, 1944, ch. 373, title III, § 353, as added Dec. 5, 1967, Pub. L. 90–174, § 5(a), 81 Stat. 536.)

EFFECTIVE DATE

Section 5(b) of Pub. L. 90–174 provided that: "The amendment made by subsection (a) [enacting this section] shall become effective on the first day of the thirteenth month after the month [December 1967] in which it is enacted, except that the Secretary of Health, Education, and Welfare may postpone such effective date for such additional period as he finds necessary, but not beyond the first day of the 19th month after such month [December 1967] in which the amendment is enacted."

SHORT TITLE

Section 5(c) of Pub. L. 90–174 provided that: "This section [enacting this section and note provisions under this section] may be cited as the 'Clinical Laboratories Improvement Act of 1967.' "

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

Subpart 3.—Electronic Product Radiation Control

§ 263b. Congressional declaration of purpose.

The Congress hereby declares that the public health and safety must be protected from the dangers of electronic product radiation. Thus, it is the purpose of this subpart to provide for the establishment by the Secretary of an electronic product radiation control program which shall include the development and administration of performance standards to control the emission of electronic product radiation from electronic products and the undertaking by public and private organizations of research and investigation into the effects and control of such radiation emissions. (July 1, 1944, ch. 373, title III, § 354, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1173.)

SHORT TITLE

Section 1 of Pub. L. 90–602 provided that: "This Act [enacting this subpart and provisions set out as notes under this section] may be cited as the 'Radiation Control for Health and Safety Act of 1968'."

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

Section 3 of Pub. L. 90–602 provided that: "As used in the amendments made by section 2 of this Act [enacting this subpart], except when otherwise specified, the term 'Secretary' means the Secretary of Health, Education, and Welfare, and the term 'Department' means the Department of Health, Education, and Welfare."

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Section 4 of Pub. L. 90–602 provided that: "The amendments made by section 2 of this Act [enacting this subpart] shall not be construed as superseding or limiting the functions, under any other provision of law, of any officer or agency of the United States."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263c—263n of this title.

§ 263c. Definitions.

As used in this subpart—

(1) the term "electronic product radiation" means—

(A) any ionizing or non-ionizing electromagnetic or particulate radiation, or

(B) any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product;

(2) the term "electronic product" means (A) any manufactured or assembled product which, when in operation, (i) contains or acts as part of an electronic circuit and (ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or (B) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in clause (A) and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation;

(3) the term "manufacturer" means any person engaged in the business of manufacturing, assembling, or importing of electronic products;

(4) the term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia; and

(5) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(July 1, 1944, ch. 373, title III, § 355, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1174.)

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b, 263d—263n of this title.

§ 263d. Program of control.

(a) Establishment.

The Secretary shall establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation. As a part of such program, he shall—

(1) pursuant to section 263f of this title, develop and administer performance standards for electronic products;

(2) plan, conduct, coordinate, and support research, development, training, and operational activities to minimize the emissions of and the exposure of people to, unnecessary electronic product radiation;

(3) maintain liaison with and receive information from other Federal and State departments and agencies with related interests, professional organizations, industry, industry and labor associations, and other organizations on present and future potential electronic product radiation;

(4) study and evaluate emissions of, and conditions of exposure to, electronic product radiation and intense magnetic fields;

(5) develop, test, and evaluate the effectiveness of procedures and techniques for minimizing exposure to electronic product radiation; and

(6) consult and maintain liaison with the Secretary of Commerce, the Secretary of Defense, the Secretary of Labor, the Atomic Energy Commission, and other appropriate Federal departments and agencies on (A) techniques, equipment, and programs for testing and evaluating electronic product radiation, and (B) the development of performance standards pursuant to section 263f of this title to control such radiation emissions.

(b) Powers of Secretary.

In carrying out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) (A) collect and make available, through publications and other appropriate means, the results of, and other information concerning, research and studies relating to the nature and extent of the hazards and control of electronic product radiation; and (B) make such recommendations relating to such hazards and control as he considers appropriate;

(2) make grants to public and private agencies, organizations, and institutions, and to individuals for the purposes stated in paragraphs (2), (4), and (5) of subsection (a) of this section;

(3) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to section 529 of Title 31 and section 5 of Title 41; and

(4) procure (by negotiation or otherwise) electronic products for research and testing purposes, and sell or otherwise dispose of such products.

(c) Record keeping.

(1) Each recipient of assistance under sections this subpart pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants or contracts entered into under this subpart under other than competitive bidding procedures. (July 1, 1944, ch. 373, title III, § 356, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1174.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law or any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b, 263c, 263c—263n of this title.

§ 263e. Studies by the Secretary.

(a) Report to Congress.

The Secretary shall conduct the following studies, and shall make a report or reports of the results of such studies to the Congress on or before January 1, 1970, and from time to time thereafter as he may find necessary, together with such recommendations for legislation as he may deem appropriate:

(1) A study of present State and Federal control of health hazards from electronic product radiation and other types of ionizing radiation, which study shall include, but not be limited to—

(A) control of health hazards from radioactive materials other than material regulated under the Atomic Energy Act of 1954;

(B) any gaps and inconsistencies in present controls;

(C) the need for controlling the sale of certain used electronic products, particularly antiquated X-ray equipment, without upgrading such products to meet the standards for new products or separate standards for used products;

(D) measures to assure consistent and effective control of the aforementioned health hazards;

(E) measures to strengthen radiological health programs of State governments; and

(F) the feasibility of authorizing the Secretary to enter into arrangements with individual States or groups of States to define their respective functions and responsibilities for the control of electronic product radiation and other ionizing radiation;

(2) A study to determine the necessity for the development of standards for the use of nonmedical electronic products for commercial and industrial purposes; and

(3) A study of the development of practicable procedures for the detection and measurement of electronic product radiation which may be emitted from electronic products manufactured or imported prior to the effective date of any applicable standard established pursuant to this subpart.

(b) Participation of other Federal agencies.

In carrying out these studies, the Secretary shall invite the participation of other Federal departments and agencies having related responsibilities and interests, State governments—particularly those of States which regulate radioactive materials under section 2021 of this title and interested professional, labor, and industrial organizations. Upon request from congressional committees interested in these studies, the Secretary shall keep these committees currently informed as to the progress of the studies and shall permit the committees to send observers to meetings of the study groups.

(c) Organization of studies and participation.

The Secretary or his designee shall organize the studies and the participation of the invited participants as he deems best. Any dissent from the findings and recommendations of the Secretary shall be included in the report if so requested by the dissenter. (July 1, 1944, ch. 373, title III, § 357, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1176.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, which is classified to section 2011 et seq. of this title.

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263d, 263f—263n of this title.

§ 263f. Performance standards for electronic products.

(a) Promulgation of regulations.

(1) The Secretary shall by regulation prescribe performance standards for electronic products to control the emission of electronic product radiation from such products if he determines that such standards are necessary for the protection of the public health and safety. Such standards may include provisions for the testing of such products and the measurement of their electronic product radiation emissions, may require the attachment of warning signs and labels, and may require the provision of instructions for the installation, operation, and use of such products. Such standards may be prescribed from time to time whenever such determinations are made, but the first of such standards shall be prescribed prior to January 1, 1970. In the development of such standards, the Secretary shall consult with Federal and State departments and agencies having related responsibilities or interests and with appropriate professional organizations and interested persons, including representatives of industries and labor organizations which would be affected by such standards, and shall give consideration to—

(A) the latest available scientific and medical data in the field of electronic product radiation;

(B) the standards currently recommended by (i) other Federal agencies having responsibilities relating to the control and measurement of electronic product radiation, and (ii) public or private groups having an expertise in the field of electronic product radiation;

(C) the reasonableness and technical feasibility of such standards as applied to a particular electronic product;

(D) the adaptability of such standards to the need for uniformity and reliability of testing and measuring procedures and equipment; and

(E) in the case of a component, or accessory described in paragraph (2) (B) of section 263c of this title, the performance of such article in the manufactured or assembled product for which it is designed.

(2) The Secretary may prescribe different and individual performance standards, to the extent appropriate and feasible, for different electronic products so as to recognize their different operating characteristics and uses.

(3) The performance standards prescribed under this section shall not apply to any electronic product which is intended solely for export if (A) such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that such product is intended for export, and (B) such product meets all the applicable requirements of the country to which such product is intended for export.

(4) The Secretary may by regulation amend or revoke any performance standard prescribed under this section.

(5) The Secretary may exempt from the provisions of this section any electronic product intended for use by departments or agencies of the United States provided such department or agency has prescribed procurement specifications governing emissions of electronic product radiation and provided further that such product is of a type used solely or predominantly by departments or agencies of the United States.

(b) Administrative procedure.

The provisions of subchapter II of chapter 5 of Title 5 (relating to the administrative procedure for rulemaking), and of chapter 7 of Title 5 (relating to judicial review), shall apply with respect to any regulation prescribing, amending, or revoking any standard prescribed under this section.

(c) Publication in Federal Register.

Each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect which, in the case of any regulation prescribing, or amending any standard, may not be sooner than one year or not later than two years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and publishes in the Federal Register his

reason for such finding, in which case such earlier or later date shall apply.

(d) Judicial review.

(1) In a case of actual controversy as to the validity of any regulation issued under this section prescribing, amending, or revoking a performance standard, any person who will be adversely affected by such regulation when it is effective may at any time prior to the sixtieth day after such regulation is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such regulation. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the regulation, as provided in section 2112 of Title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original regulation, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the regulation in accordance with chapter 7 of Title 5 and to grant appropriate relief as provided in such chapter.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not substitution for any other remedies provided by law.

(e) Availability of record.

A certified copy of the transcript of the record and administrative proceedings under this section shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this subpart irrespective of whether proceedings with respect to the regulation have previously been initiated or become final under this section.

(f) Technical Electronic Product Radiation Safety Standards Committee.

(1) (A) The Secretary shall establish a Technical Electronic Product Radiation Safety Standards Committee (hereafter in this subpart referred to as the "Committee") which he shall consult before prescribing any standard under this section. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspects of electronic product radiation safety, and shall be composed of fifteen members each of whom shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety, as follows:

(i) Five members shall be selected from governmental agencies including State and Federal Governments;

(ii) Five members shall be selected from the affected industries after consultation with industry representatives; and

(iii) Five members shall be selected from the general public, of which at least one shall be a representative of organized labor.

(B) The Committee may propose electronic product radiation safety standards to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(2) Payments to members of the Committee who are not officers or employees of the United States pursuant to section 210(c) of this title shall not render members of the Committee officers or employees of the United States for any purpose.

(g) Review and evaluation.

The Secretary shall review and evaluate on a continuing basis testing programs carried out by industry to assure the adequacy of safeguards against hazardous electronic product radiation and to assure that electronic products comply with standards prescribed under this section.

(h) Product certification.

Every manufacturer of an electronic product to which is applicable a standard in effect under this section shall furnish to the distributor or dealer at the time of delivery of such product, in the form of a label of tag permanently affixed to such product or in such manner as approved by the Secretary, the certification that such product conforms to all applicable standards under this section. Such certification shall be based upon a test, in accordance with such standard, of the individual article to which it is attached or upon a testing program which is in accord with good manufacturing practice and which has not been disapproved by the Secretary (in such manner as he shall prescribe by regulation) on the grounds that it does not assure the adequacy of safeguards against hazardous electronic product radiation or that it does not assure that electronic products comply with the standards prescribed under this section. (July 1, 1944, ch. 373, title III, § 358, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1177, amended Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), (3), 84 Stat. 1311.)

AMENDMENTS

1970—Subsec. (f)(2). Pub. L. 91–515 struck out the provisions which related to the payment of compensation and travel expenses of members of the Committee who are not officers or employees of the United States, and substituted "to members of the Committee who are not officers or employees of the United States pursuant to section 210(c) of this title" for "under this subsection".

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263e, 263g—263n of this title.

§ 263g. Notification of defects in and repair or replacement of electronic products.

(a) Notification; exemption.

(1) Every manufacturer of electronic products who discovers that an electronic product produced, assembled, or imported by him has a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, or that an electronic product produced, assembled, or imported by him on or after the effective date of an applicable standard prescribed pursuant to section 263f of this title fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such product has left the place of manufacture and shall (except as authorized by paragraph (2)) with reasonable promptness furnish notification of such defect or failure to the persons (where known to the manufacturer) specified in subsection (b) of this section.

(2) If, in the opinion of such manufacturer, the defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he may, at the time of giving notice to the Secretary of such defect or failure to comply, apply to the Secretary for an exemption from the requirement of notice to the persons specified in subsection (b) of this section. If such application states reasonable grounds for such exemption, the Secretary shall afford such manufacturer an opportunity to present his views and evidence in support of the application, the burden of proof being on the manufacturer. If, after such presentation, the Secretary is satisfied that such defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he shall exempt such manufacturer from the requirement of notice to the persons specified in subsection (b) of this section and from the requirements of repair or replacement imposed by subsection (f) of this section.

(b) Method of notification.

The notification (other than to the Secretary) required by paragraph (1) of subsection (a) of this section shall be accomplished—

(1) by certified mail to the first purchaser of such product for purposes other than resale, and to any subsequent transferee of such product; and

(2) by certified mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such product was delivered.

(c) Requisite elements of notification.

The notifications required by paragraph (1) of subsection (a) of this section shall contain a clear description of such defect or failure to comply with an applicable standard, an evaluation of the hazard reasonably related to such defect or failure to comply, and a statement of the measures to be taken to repair such defect. In the case of a notification to a person referred to in subsection (b) of this section, the notification shall also advise the person of his rights under subsection (f) of this section.

(d) Copies to Secretary of communications by manufacturers to dealers or distributors regarding defects.

Every manufacturer of electronic products shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers or distributors of such manufacturer or to purchasers (or subsequent transferees) of electronic products of such manufacturer regarding any such defect in such product or any such failure to comply with a standard applicable to such product. The Secretary shall disclose to the public so much of the information contained in such notice or other information obtained under section 263i of this title as he deems will assist in carrying out the purposes of this subpart, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of Title 18 unless he determines that it is necessary to carry out the purposes of this subpart.

(e) Notice from Secretary to manufacturer of defects or failure to comply with standards.

If through testing, inspection, investigation, or research carried out pursuant to this subpart, or examination of reports submitted pursuant to section 263i of this title, or otherwise, the Secretary determines that any electronic product—

(1) does not comply with an applicable standard prescribed pursuant to section 263f of this title; or

(2) contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation;

he shall immediately notify the manufacturer of such product of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not exist or does not relate to safety of use of the product by reason of the emission of such radiation hazard. If after such presentation by the manufacturer the Secretary determines that such product does not comply with an applicable standard prescribed pursuant to section 263f of this title, or that it contains a defect which relates to the safety of use of such product by reason of the emission of

electronic product radiation, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the persons specified in paragraphs (1) and (2) of subsection (b) of this section (where known to the manufacturer), unless the manufacturer has applied for an exemption from the requirement of such notification on the ground specified in paragraph (2) of subsection (a) of this section and the Secretary is satisfied that such noncompliance or defect is not such as to create a significant risk of injury, including genetic injury, to any person.

(f) Correction of defects.

If any electronic product is found under subsection (a) or (e) of this section to fail to comply with an applicable standard prescribed under this subpart or to have a defect which relates to the safety of use of such product, and the notification specified in subsection (c) of this section is required to be furnished on account of such failure or defect, the manufacturer of such product shall (1) without charge, bring such product into conformity with such standard or remedy such defect and provide reimbursement for any expenses for transportation of such product incurred in connection with having such product brought into conformity or having such defect remedied, (2) replace such product with a like or equivalent product which complies with each applicable standard prescribed under this subpart and which has no defect relating to the safety of its use, or (3) make a refund of the cost of such product. The manufacturer shall take the action required by this subsection in such manner, and with respect to such persons, as the Secretary by regulations shall prescribe.

(g) Effective date.

This section shall not apply to any electronic product that was manufactured before October 18, 1968. (July 1, 1944, ch. 373, title III, § 359, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1180.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263f, 263h—263n of this title.

§ 263h. Imports.

(a) Refusal of admission to non-complying electronic products.

Any electronic product offered for importation into the United States which fails to comply with an applicable standard prescribed under this subpart, or to which is not affixed a certification in the form of a label or tag in conformity with section 263f(h) of this title shall be refused admission into the United States. The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter's request, samples of electronic products which are being imported or offered for import in to the United States, giving notice thereof to the owner or consignee, who may have a hearing before the Secretary of Health, Education, and Welfare. If it appears from an examination of such samples or otherwise that any electronic product fails to comply with applicable standards prescribed pursuant to section 263f of this title, then, unless subsection (b) of this section applies and is complied with, (1) such electronic product shall be refused admission, and (2) the Secretary of the Treasury shall cause the destruction of such electronic product unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days after the date of notice of refusal of admission or within such additional time as may be permitted by such regulations.

(b) Bond.

If it appears to the Secretary of Health, Education, and Welfare that any electronic product refused admission pursuant to subsection (a) of this section can be brought into compliance with applicable standards prescribed pursuant to section 263f of this title, final determination as to admission of such electronic product may be deferred upon filing of timely written application by the owner or consignee and the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as the Secretary of Health, Education, and Welfare may by regulation prescribe. If such application is filed and such bond is executed the Secretary of Health, Education, and Welfare may, in accordance with rules prescribed by him, permit the applicant to perform such operations with respect to such electronic product as may be specified in the notice of permission.

(c) Liability of owner or consignee for expenses connected with refusal of admission.

All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of operations provided for in subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any electronic product refused admission pursuant to subsection (a) of this section, shall be paid by the owner or consignee, and, in event of default, shall constitute a lien against any future importations made by such owner or consignee.

(d) Designation of agent for purposes of service.

It shall be the duty of every manufacturer offering an electronic product for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of said manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon said manufacturer by service upon such

designated agent at his office or usual place of residence with like effect as if made personally upon said manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subpart or any standards prescribed pursuant to this subpart may be made by posting such process, notice, order, requirement, or decision in the Office of the Secretary or in a place designated by him by regulation. (July 1, 1944, ch. 373, title III, § 360, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1181.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263g, 263l—263n of this title.

§ 263i. Inspection, records, and reports.

(a) Inspection of premises.

If the Secretary finds for good cause that the methods, tests, or programs related to electronic product radiation safety in a particular factory, warehouse, or establishment in which electronic products are manufactured or held, may not be adequate or reliable, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are thereafter authorized (1) to enter, at reasonable times, any area in such factory, warehouse, or establishment in which the manufacturer's tests (or testing programs) required by section 263f(h) of this title are carried out, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, the facilities and procedures within such area which are related to electronic product radiation safety. Each such inspection shall be commenced and completed with reasonable promptness. In addition to other grounds upon which good cause may be found for purposes of this subsection, good cause will be considered to exist in any case where the manufacturer has introduced into commerce any electronic product which does not comply with an applicable standard prescribed under this subpart and with respect to which no exemption from the notification requirements has been granted by the Secretary under section 263g(a)(2) or 263g(e) of this title.

(b) Record keeping.

Every manufacturer of electronic products shall establish and maintain such records (including testing records), make such reports, and provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this subpart and standards prescribed pursuant to this subpart and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with standards prescribed pursuant to this subpart.

(c) Disclosure of technical data.

Every manufacturer of electronic products shall provide to the Secretary such performance data and other technical data related to safety as may be required to carry out the purposes of this subpart. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data at the time of original purchase to the ultimate purchaser of the electronic product, as he determines necessary to carry out the purposes of this subpart after consulting with the affected industry.

(d) Public nature of reports.

Accident and investigation reports made under this subpart by any officer, employee, or agent of the Secretary shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) Trade secrets.

The Secretary or his representative shall not disclose any information reported to or otherwise obtained by him, pursuant to subsection (a) or (b) of this section, which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of Title 18, except that such information may be disclosed to other officers or employees of the Department and of other agencies concerned with carrying out this subpart or when relevant in any proceeding under this subpart. Nothing in this section shall authorize the withholding of information by the Secretary, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(f) Information required to identify and locate first purchasers of electronic products.

The Secretary may by regulation (1) require dealers and distributors of electronic products, to which there are applicable standards prescribed under this subpart and the retail prices of which is not less than $50, to furnish manufacturers of such products such information as may be necessary to identify and locate, for purposes of section 263g of this title, the first purchasers of such products for purposes other than resale, and (2) require manufacturers to preserve such information. Any regulation establishing a requirement pursuant to clause (1) of the preceding sentence shall (A) authorize such dealers and distributors to elect, in lieu of immediately furnishing such information to the manufacturer, to hold and preserve such information until advised by the manufacturer or Secretary that such information is

needed by the manufacturer for purposes of section 263g of this title, and (B) provide that the dealer or distributor shall, upon making such election, give prompt notice of such election (together with information identifying the notifier and the product) to the manufacturer and shall, when advised by the manufacturer or Secretary, of the need therefor for the purposes of section 263g of this title, immediately furnish the manufacturer with the required information. If a dealer or distributor discontinues the dealing in or distribution of electronic products, he shall turn the information over to the manufacturer. Any manufacturer receiving information pursuant to this subsection concerning first purchasers of products for purposes other than resale shall treat it as confidential and may use it only if necessary for the purpose of notifying persons pursuant to section 263g(a) of this title. (July 1, 1944, ch. 373, title III, § 360A, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1182.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263h, 263j—26n of this title.

§ 263j. Prohibited acts.

(a) It shall be unlawful—

(1) for any manufacturer to introduce, or to deliver for introduction, into commerce, or to import into the United States, any electronic product which does not comply with an applicable standard prescribed pursuant to section 263f of this title;

(2) for any person to fail to furnish any notification or other material or information required by section 263g or 263i of this title; or to fail to comply with the requirements of section 263g(f) of this title;

(3) for any person to fail or to refuse to establish or maintain records required by this subpart or to permit access by the Secretary or any of his duly authorized representatives to, or the copying of, such records, or to permit entry or inspection, as required by or pursuant to section 263i of this title;

(4) for any person to fail or to refuse to make any report required pursuant to section 263i(b) of this title or to furnish or preserve any information required pursuant to section 263i(f) of this title; or

(5) for any person (A) to fail to issue a certification as required by section 263f(h) of this title, or (B) to issue such a certification when such certification is not based upon a test or testing program meeting the requirements of section 263f(h) of this title or when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect.

(b) The Secretary may exempt any electronic product, or class thereof, from all or part of subsection (a) of this section, upon such conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security. (July 1, 1944, ch. 373, title III, § 360B, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1184.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263i, 263k—263n of this title.

§ 263k. Enforcement.

(a) Jurisdiction of courts.

The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of section 263j of this title and to restrain dealers and distributors of electronic products from selling or otherwise disposing of electronic products which do not conform to an applicable standard prescribed pursuant to section 263f of this title except when such products are disposed of by returning them to the distributor or manufacturer from whom they were obtained. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of Title 28 to enforce the provisions of subsection (b) of this section.

(b) Penalties.

(1) Any person who violates section 263j of this title shall be subject to a civil penalty of not more than $1,000. For purposes of this subsection, any such violation shall with respect to each electronic product involved, or with respect to each act or omission made unlawful by section 263j of this title constitute a separate violation, except that the maximum civil penalty imposed on any person under this subsection for any related series of violations shall not exceed $300,000.

(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

(c) Venue; process.

Actions under subsections (a) and (b) of this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever defendant may be found.

(d) Warnings.

Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

(e) Compliance with regulations.

Except as provided in the first sentence of section 263n of this title, compliance with this subpart or any regulations issued thereunder shall not relieve any person from liability at common law or under statutory law.

(f) Additional remedies.

The remedies provided for in this subpart shall be in addition to not in substitution for any other remedies provided by law. (July 1, 1944, ch. 373, title III, § 360C, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1184.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263j, 263*l*—263n of this title.

§ 263*l*. Annual report.

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this subpart for the preceding calendar year. Such report shall include—

(1) a thorough appraisal (including statistical analyses, estimates, and long-term projections) of the incidence of biological injury, and effects, including genetic effects, to the population resulting from exposure to electronic product radiation, with a breakdown, insofar as practicable, among the various sources of such radiation;

(2) a list of Federal electronic product radiation control standards prescribed or in effect in such year, with identification of standards newly prescribed during such year;

(3) an evaluation of the degree of observance of applicable standards, including a list of enforcement actions, court decisions, and compromises of alleged violations by location and company name;

(4) a summary of outstanding problems confronting the administration of this subpart in order of priority;

(5) an analysis and evaluation of research activities completed as a result of Government and private sponsorship, and technological progress for safety achieved during such year;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this subpart;

(7) the extent to which technical information was disseminated to the scientific, commercial, and labor community and consumer-oriented information was made available to the public; and

(8) the extent of cooperation between Government officials and representatives of industry and other interested parties in the implementation of this subpart including a log or summary of meetings held between Government officials and representatives of industry and other interested parties.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of electronic product radiation control and to strengthen the national electronic product radiation control program. (July 1, 1944, ch. 373, title III, § 360D, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1185.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except whe notherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263k, 263m, 263n of this title.

§ 263m. Federal-State cooperation.

The Secretary is authorized (1) to accept from State and local authorities engaged in activities related to health or safety or consumer protection, on a reimbursable basis or otherwise, any assistance in the administration and enforcement of this subpart which he may request and which they may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and (2) he may, for the purpose of conducting examinations, investigations, and inspections, commission any officer or employee of any such authority as an officer of the Department. (July 1, 1944, ch. 373, title III, § 360E, as added Oct. 18, 1968, Pub. L. 90–602, § 2(3), 82 Stat. 1186.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90–602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263*l*, 263n of this title.

§ 263n. State standards.

Whenever any standard prescribed pursuant to section 263f of this title with respect to an aspect of performance of an electronic product is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any standard which is applicable to the same aspect of performance of such product and which is not identical to the Federal standard. Nothing in this subpart shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a requirement with respect to emission of radiation from electronic products procured for its own use if such requirement imposes a more restrictive standard than that required to comply with the otherwise applicable Federal standard. (July 1, 1944, ch. 373, title III, § 360F, as added Oct. 18, 1968, Pub. L. 90-602, § 2(3), 82 Stat. 1186.)

DEFINITION OF "SECRETARY" AND "DEPARTMENT"

The terms "Secretary" and "Department" as used in this section, except when otherwise specified, to mean Secretary of Health, Education, and Welfare and Department of Health, Education, and Welfare, respectively, see section 3 of Pub. L. 90-602, set out as a note under section 263b of this title.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 263b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263b—263m of this title.

PART G.—QUARANTINE AND INSPECTION

§ 264. Regulations to control communicable diseases; apprehension, detention, and release of certain persons from particular places.

(a) The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Except as provided in subsection (d) of this section, regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. (July 1, 1944, ch. 373, title III, § 361, 58 Stat. 703; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; July 12, 1960, Pub. L. 86-624, § 29(c), 74 Stat. 419.)

AMENDMENTS

1960—Subsec. (c). Pub. L. 86-624 eliminated a reference to the Territory of Hawaii.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (c) of this section by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as a note under section 645 of Title 20, Education.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855. 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

CROSS REFERENCES

Compliance with State laws, see section 97 of this title.

Removal of revenue officers, during epidemics, see section 112 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 255, 266, 271 of this title.

§ 265. Suspension of entries and imports from designated places to prevent spread of communicable diseases.

Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction

of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose. (July 1, 1944, ch. 373, title III, § 362, 58 Stat. 704.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 266. Special quarantine powers in time of war.

To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 264 of this title, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary. (July 1, 1944, ch. 373, title III, § 363, 58 Stat. 704.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 271 of this title.

§ 267. Quarantine stations, grounds, and anchorages.

(a) Control and management.

Except as provided in sections 191, 192, 193, and 194 of Title 50, the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) Hours of inspection.

The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.

(c) Overtime pay for employees of Service.

The Surgeon General shall fix a reasonable rate of extra compensation for overtime services of employees of the United States Public Health Service, Foreign Quarantine Division, performing overtime duties including the operation of vessels, in connection with the inspection or quarantine treatment of persons (passengers and crews), conveyances, or goods arriving by land, water, or air in the United States or any place subject to the jurisdiction thereof, hereinafter referred to as "employees of the Public Health Service", when required to be on duty between the hours of 6 o'clock postmeridian and 6 o'clock antemeridian (or between the hours of 7 o'clock postmeridian and 7 o'clock antemeridian at stations which have a declared workday of from 7 o'clock antemeridian to 7 o'clock postmeridian), or on Sundays or holidays, such rate, in lieu of compensation under any other provision of law, to be fixed at two times the basic hourly rate for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian, and two times the basic hourly rate for each overtime hour worked on Sundays or holidays. As used in this subsection, the term "basic hourly rate" shall mean the regular basic rate of pay which is applicable to such employees for work performed within their regular scheduled tour of duty.

(d) Payment of extra compensation to United States; bond or deposit to assure payment; deposit of moneys to credit of appropriation.

(1) The said extra compensation shall be paid to the United States by the owner, agent, consignee, operator, or master or other person in charge of any conveyance, for whom, at his request, services as described in this subsection (hereinafter referred to as overtime service) are performed. If such employees have been ordered to report for duty and have so reported, and the requested services are not performed by reason of circumstances beyond the control of the employees concerned, such extra compensation shall be paid on the same basis as though

the overtime services had actually been performed during the period between the time the employees were ordered to report for duty and did so report, and the time they were notified that their services would not be required, and in any case as though their services had continued for not less than one hour. The Surgeon General with the approval of the Secretary of Health, Education, and Welfare may prescribe regulations requiring the owner, agent, consignee, operator, or master or other person for whom the overtime services are performed to file a bond in such amounts and containing such conditions and with such sureties, or in lieu of a bond, to deposit money or obligations of the United States in such amount, as will assure the payment of charges under this subsection, which bond or deposit may cover one or more transactions or all transactions during a specified period: *Provided,* That no charges shall be made for services performed in connection with the inspection of (1) persons arriving by international highways, ferries, bridges, or tunnels, or the conveyances in which they arrive, or (2) persons arriving by aircraft or railroad trains, the operations of which are covered by published schedules, or the aircraft or trains in which they arrive, or 3) persons arriving by vessels operated between Canadian ports and ports on Puget Sound or operated on the Great Lakes and connecting waterways, the operations of which are covered by published schedules, or the vessels in which they arrive.

(2) Moneys collected under this subsection shall be deposited in the Treasury of the United States to the credit of the appropriation charged with the expense of the services, and the appropriations so credited shall be available for the payment of such compensation to the said employees for services so rendered. (July 1, 1944, ch. 373, title III, § 364, 58 Stat. 704; June 21, 1957, Pub. L. 85–58, ch. VII, § 701, 71 Stat. 181; Aug. 1, 1958, Pub. L. 85–580, title II, § 201, 72 Stat. 467.)

REFERENCES IN TEXT

Section 193 of Title 50, referred to in subsec. (a), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 2274 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1958—Subsec. (c). Pub. L. 85–580 increased the rate of pay for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian from one and one-half times the basic hourly rate to two times the basic hourly rate.

1957—Subsecs. (c), (d). Pub. L. 85–58 added subsecs. (c) and (d).

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DELEGATION OF FUNCTIONS

Functions of the President delegated to the Secretary of Health, Education, and Welfare, see Ex. Ord. No. 11140, Jan. 30, 1964, 29 F.R. 1637, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270, 271 of this title.

§ 268. Quarantine duties of consular and other officers.

(a) Any consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services. (July 1, 1944, ch. 373, title III, § 365, 58 Stat. 705; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

Reference to the Secretary of Health, Education, and Welfare was substituted for reference to the Federal Security Administrator pursuant to 1953 Reorg. Plan No. 1, § 5, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency to the Department of Health, Education, and Welfare. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. Officers of the customs are officers of the Treasury Department.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 270 of this title.

§ 269. Bills of health.

(a) Detail of medical officer; conditions precedent to issuance; consular officer to receive fees.

Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c) of this section. Before granting such duplicate bill of health, such consular or medical officer shall

be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

(b) Collectors of customs to receive originals; duplicate copies as part of ship's papers.

Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

(c) Regulations to secure sanitary conditions of vessels.

The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be observed by such vessels prior to departure, during the course of the voyage, and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

(d) Vessels from ports near frontier.

The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

(e) Compliance with regulations.

It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations prescribed under subsection (c) of this section have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station. (July 1, 1944, ch. 373, title III, § 366, 58 Stat. 705.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 270, 271 of this title.

§ 270. Quarantine regulations governing civil air navigation and civil aircraft.

The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 267 to 269 of this title and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health. (July 1, 1944, ch. 373, title III, § 367, 58 Stat. 706.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 271. Penalties for violation of quarantine laws; remission or mitigation of forfeitures.

(a) Any person who violates any regulation prescribed under sections 264 to 266 of this title, or any provision of section 269 of this title or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

(b) Any vessel which violates section 269 of this title, or any regulations thereunder or under section 267 of this title, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than $5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered by proceedings in the proper district court of the United States. In all such proceedings the United States attorney shall appear on behalf of the United States; and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) With the approval of the Secretary, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications. (July 1, 1944, ch. 373, title III, § 368, 58 Stat. 706; June 25, 1948, ch. 646, § 1, 62 Stat. 909; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CHANGE OF NAME

Act June 25, 1948, substituted "United States attorney" for "United States district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

Reference to the Federal Security Administrator was changed to the Secretary of Health, Education, and Welfare, pursuant to Reorg. Plan No. 1, § 5, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency to the Department of Health, Education, and Welfare. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 272. Administration of oaths by quarantine officers.

Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States. (July 1, 1944, ch. 373, title III, § 369, 58 Stat. 706.)

PART H.—GRANTS TO ALASKA FOR MENTAL HEALTH

CODIFICATION

Another Part H, entitled "National Library of Medicine", was added by act Aug. 3, 1956, ch. 907, 70 Stat. 960. Its part designation was changed to "Part I" and it is set out in section 275 et seq. of this title.

§ 273. Repealed. Pub. L. 86-70, § 31(b)(1), June 25, 1959, 73 Stat. 148, eff. July 1, 1959.

Section, act July 1, 1944, ch. 373, title III, § 371, as added July 28, 1956, ch. 772, title II, § 201, 70 Stat. 709, authorized grants to the Territory of Alaska for an integrated mental health program. A subsequent section 371 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, is set out as section 275 of this title.

EFFECTIVE DATE OF REPEAL

Section 31(b)(1) of Pub. L. 86-70 provided in part that the repeal of this section shall be effective July 1, 1959.

§ 274. Grants to Alaska for mental health program; payments for construction of hospital facilities.

(a) Appropriation.

There is authorized to be appropriated an amount not exceeding the total sum of $6,500,000, to remain available until expended, to enable the Surgeon General to make payments to Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

(b) Construction of projects.

Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by Alaska in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

(c) Certification for payment; inspection; withholding of payment.

Upon certification by Alaska, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided, however,* That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

(d) Definition of cost of construction.

The term "cost of construction" means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost of land acquired specifically for the purpose of the project, and on-site improvements.

(e) Recovery of value of facility.

If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under Alaska's mental health program, the United States shall be entitled to recover from Alaska the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which Alaska may have contributed to the cost of construction thereof. (July 1, 1944, ch. 373, title III, § 372, as added July 28, 1956, ch. 772, title II, § 201, 70 Stat. 710, and amended June 25, 1959, Pub. L. 86-70, § 31(b)(2)—(4), 73 Stat. 148.)

CODIFICATION

A subsequent section 372 of act July 1, 1944, added by act Aug. 3, 1956 ch. 941, § 1, 70 Stat. 960, and relating to the functions of the National Library of Medicine, is classified to section 276 of this title.

AMENDMENTS

1959—Subsec. (a). Pub. L. 86-70, § 31(b)(2), eliminated words "the Territory of" preceding "Alaska as."

Subsec. (b). Pub. L. 86-70, § 31(b)(3), substituted "Alaska" for "the Territory."

Subsec. (c). Pub. L. 86-70, § 31(b)(3), substituted "Alaska" for "the Territory."

Subsec. (e). Pub. L. 86-70, § 31(b) (3), (4), substituted "Alaska" for "the Territory" in two instances, and "Alaska's" for "the Territory's."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70.

EFFECTIVE DATE

Section 203 of act, July 28, 1956 provided that this section shall be effective July 28, 1956.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all

functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

PART I.—NATIONAL LIBRARY OF MEDICINE

CODIFICATION

Pub. L. 91-212, § 10(a)(2), Mar. 13, 1970, 84 Stat. 66, redesignated "Part H—National Library of Medicine", as "Part I—National Library of Medicine".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 280b-2 of this title.

§ 275. Congressional declaration of purpose; establishment.

In order to assist the advancement of medical and related sciences, and to aid the dissemination and exchange of scientific and other information important to the progress of medicine and to the public health, there is established in the Public Health Service a National Library of Medicine (hereinafter referred to in this part as the "Library"). (July 1, 1944, ch. 373, title III, § 381, formerly § 371, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, and renumbered Mar 13, 1970, Pub. L. 91-212, § 10(a)(3), 84 Stat. 66.)

CODIFICATION

A prior section 371 of act July 1, 1944, added by act July 28, 1956, ch. 772, title II, § 201, 70 Stat. 209, and relating to grants for Alaska Mental Health program, was classified to former section 273 of this title and was repealed.

SHORT TITLE

Section 2 of act Aug. 3, 1956, provided that: "This Act [which enacted this part] may be cited as the 'National Library of Medicine Act'."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b-2 of this title.

§ 276. Functions.

(a) The Secretary, through the Library and subject to the provisions of subsection (c) of this section, shall—

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials pertinent to medicine;

(2) organize the materials specified in clause (1) of this subsection by appropriate cataloging, indexing, and bibliographical listing;

(3) publish and make available the catalogs, indexes, and bibliographies referred to in clause (2) of this subsection;

(4) make available, through loans, photographic or other copying procedures or otherwise, such materials in the Library as he deems appropriate;

(5) provide reference and research assistance; and

(6) engage in such other activities in furtherance of the purposes of this part as he deems appropriate and the Library's resources permit.

(b) The Secretary may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(c) The Secretary is authorized, after obtaining the advice and recommendations of the Board (established under section 277 of this title), to prescribe rules under which the Library will provide copies of its publications or materials, or will make available its facilities for research or its bibliographic, reference, or other services, to public and private agencies and organizations, institutions, and individuals. Such rules may provide for making available such publications, materials, facilities, or services (1) without charge as a public service, or (2) upon a loan, exchange, or charge basis, or (3) in appropriate circumstances, under contract arrangements made with a public or other nonprofit agency, organization, or institution. (July 1, 1944, ch. 373, title III, § 382, formerly § 372, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (b)(1), (d)(1), 84 Stat. 66, 67.)

CODIFICATION

A prior section 372 of act July 1, 1944, added by act July 28, 1956, ch. 772, title II, § 201, 70 Stat. 209, and relating to payments for construction of hospital facilities in connection with the Alaska mental health program, is classified to section 274 of this title.

AMENDMENTS

1970—Pub. L. 91-212, § 10(d)(1), struck out "Surgeon General" wherever appearing. "Secretary" was substituted therefor in the codification of Pub. L. 91-212 as the probable intent of Congress.

Subsec. (c). Pub. L. 91-212, 10(b)(1), substituted "section 383" for "section 373" which for purposes of codification has been editorially translated as "section 277 of this title."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 12(b) of Pub. L. 91-212 provided that: "The amendments made by sections 10(d) and 11 [amending this section and sections 201, 277, 278, 280, 280a-1, 280b-2 to 280b-9 and 280b-11 of this title] shall take effect on the date of enactment of this Act [Mar. 13, 1970]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b-2 of this title.

§ 277. Board of Regents.

(a) Establishment; composition; appointment of members; Chairman; executive secretary.

There is established in the Public Health Service a Board of Regents of the National Library of Medicine (referred to in this part as the "Board") consisting of the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, the Assistant Director for Biological and Medical Sciences of the National Science Foundation, and the Librarian of Congress, all of whom shall be ex officio members and ten members appointed by the President, by and with the advice and consent of the Senate. The ten appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public

health, hospital administration, pharamacology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of medical, dental, or public health research or education. The Board shall annually elect one of the appointed members to serve as Chairman until the next election. The Secretary shall designate a member of the Library staff to act as executive secretary of the Board.

(b) Duties of Board; annual report of Secretary.

It shall be the duty of the Board to advise, consult with, and make recommendations to the Secretary on important matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users, and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The Secretary is authorized to use the services of any member or members of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as he may determine.

(c) Terms of office; vacancies; reappointment.

Each appointed member of the Board shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office after August 5, 1956 shall expire as follows: three at the end of four years after August 3, 1956, three at the end of three years after August 5, 1956, two at the end of two years after such date, and two at the end of one year after August 3, 1956, as designated by the President at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term. (July 1, 1944, ch. 373, title III, § 383, formerly § 373, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 960, and amended Oct. 22, 1965, Pub. L. 89-291, § 4, 79 Stat. 1067, renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (d)(1), 84 Stat. 66, 67; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311.)

AMENDMENTS

1970—Subsecs. (a), (b), (d), Pub. L. 91-212, § 10(d)(1), struck out "Surgeon General" wherever appearing. "Secretary" was substituted therefor in the condification of Pub. L. 91-212 as the probable intent of Congress.

Subsec. (d). Pub. L. 91-515 struck out subsec. (d) which related to the payment of compensation and travel expenses of appointed members of the Board not otherwise in the employ of the United States.

1965—Subsec. (d). Pub. L. 89-291 substituted "$75" for "$50."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 276, 279, 280b-1, 280b-2 of this title.

§ 278. Acceptance and administration of gifts; establishment of memorials.

The provisions of section 219 of this title shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of its functions, and the Board shall make recommendations to the Secretary of Health, Education, and Welfare relating to establishment within the Library of suitable memorials to the donors. (July 1, 1944, ch. 373, title III, § 384, formerly § 374, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 961, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (d)(1), 84 Stat. 66, 67.)

AMENDMENTS

1970—Pub. L. 91-212, § 10(d)(1), substituted "Board" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b-2 of this title.

§ 279. Definitions.

For purposes of this part the terms "medicine" and "medical" shall, except when used in section 277 of this title, be understood to include preventive and therapeutic medicine, dentistry, pharmacy, hospitalization, nursing, public health, and the fundamental sciences related thereto, and other related fields of study, research, or activity. (July 1, 1944, ch. 373, title III, § 385, formerly § 375, as added Aug. 3, 1956, ch. 907 § 1, 70 Stat. 962, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(a)(3), (b)(2), 84 Stat. 66.)

AMENDMENTS

1970—Pub. L. 91-212, § 10(b)(2), substituted "section 383" for "section 373" which for purposes of codification has been editorially translated as "section 277 of this title."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b-2 of this title.

§ 280. Library facilities.

There are authorized to be appropriated sums sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library in carrying out the provisions of this part. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the Secretary in accordance with the direction of the

otherwise, a suitable site or sites, selected by the Secretary in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The sums authorized in this section to be appropriated shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction. (July 1, 1944, ch. 373, title III, § 386, formerly § 376, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, and renumbered and amended Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), (d)(1), 84 Stat. 66, 67.)

AMENDMENTS

1970—Pub. L. 91–212, § 10(d)(1), struck out "Surgeon General". "Secretary" was substituted therefor in the codification of Pub. L. 91–212 as the probable intent of Congress.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91–212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b–2, 280b–3 of this title.

§ 280a. Transfer of Armed Forces Medical Library.

All civilian personnel, equipment, library collections, other personal property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Office of Management and Budget shall determine to relate primarily to the functions of the Armed Forces Medical Library, are transferred to the Service for use in the administration and operation of this part. Such transfer of property, funds, and personnel, and the other provisions of this part, shall become effective on the first day, occurring not less than thirty days after August 3, 1956, which the Director of the Office of Management and Budget determines to be practicable. (July 1, 1944, ch. 373, title III, § 387, formerly § 377, as added Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, amended 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, and renumbered Mar. 13, 1970, Pub. L. 91–212, § 10(a)(3), 84 Stat. 66.)

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management an Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280b–2 of this title.

§ 280a–1. Regional branches.

(a) Whenever, the Secretary, with the advice of the Board, determines, that—

(1) in any geographic area of the United States, there is no regional medical library adequate to service such area;

(2) under the criteria prescribed in section 280b–8 of this title, there is a need for a regional medical library to serve such area; and

(3) because there is located in such area no medical library which, under the provisions of section 280b–8 of this title, can feasibly be developed into a regional medical library adequate to serve such area,

he is authorized to establish, as a branch of the National Library of Medicine, a regional medical library to serve the needs of such area.

(b) For the purpose of establishing branches of the National Library of Medicine under this section, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed $2,000,000 for any fiscal year, as may be necessary. Sums appropriated pursuant to this section for any fiscal year shall remain available until expended. (July 1, 1944, ch. 373, title III, § 388, formerly 378, as added Oct. 22, 1965, Pub. L. 89–291, § 3, 79 Stat. 1067, and renumbered and amended Pub. L. 91–212, § 10(a)(3), (d)(1), 84 Stat. 66, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–212, § 10(d)(1), struck out "Surgeon General". "Secretary" was substituted therefor in the codification of Pub. L. 91–212 as the probable intent of Congress.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91–212, set out as a note under section 276 of this title.

PART J.—ASSISTANCE TO MEDICAL LIBRARIES

CODIFICATION

Pub. L. 91–212, § 10(a)(1), Mar. 13, 1970, 84 Stat. 66; redesignated "Part I—Assistance to Medical Libraries", as "Part J—Assistance to Medical Libraries".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 293b of this title.

§ 280b. Congressional findings and declaration of policy.

(a) The Congress hereby finds and declares that (1) the unprecedented expansion of knowledge in the health sciences within the past two decades has brought about a massive growth in the quantity, and major changes in the nature of, biomedical information, materials, and publications; (2) there has not been a corresponding growth in the facilities and techniques necessary adequately to coordinate and disseminate among health scientists and practitioners the ever-increasing volume of knowledge and information which has been developed in the health science field; (3) much of the value of the ever-increasing volume of knowledge and information which has been, and continues to be, developed in the health science field will be lost unless proper measures are taken in the immediate future to de-

velop facilities and techniques necessary to collect, preserve, store, process, retrieve, and facilitate the dissemination and utilization of, such knowledge and information.

(b) It is therefore the policy of this part to—

(1) assist in the construction of new, and the renovation, expansion, or rehabilitation of existing medical library facilities;

(2) assist in the training of medical librarians and other information specialists in the health sciences;

(3) assist, through grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists, in the compilation of existing, and the creation of additional, written matter which will facilitate the distribution and utilization of knowledge and information relating to scientific, social, and cultural advancements in sciences related to heal;

(4) assist in the conduct of research, investigations, and demonstrations in the field of medical library science and related activities, and in the development of new techniques, systems, and equipment for processing, storing, retrieving, and distributing information in the sciences related to health;

(5) assist in establishing, expanding, and improving the basic resources of medical libraries and related facilities;

(6) assist in the development of a national system of regional medical libraries each of which would have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it; and

(7) provide financial support to biomedical scientific publications.

(July 1, 1944, ch. 373, title III, § 390, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1059, and amended Mar. 13, 1970, Pub. L. 91-212, §§ 4(b), 5(b), 6(b), 84 Stat. 64, 65.)

AMENDMENTS

1970—Subsec. (b)(3). Pub. L. 91-212, § 41(b), substituted reference to grants for reference to special fellowships and added public and nonprofit private institutions on behalf of qualified individuals to the category of recipients.

Subsec. (b)(4). Pub. L. 91-212, § 5(b), added demonstrations as projects for which assistance could be given.

Subsec. (b)(5). Pub. L. 91-212, § 6(b), added authority to assist in establishing the basic resources of libraries and related facilities.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 12(a) of Pub. L. 91-212 provided that: "Except as provided in subsection (b) [see Effective Date note set out under section 276 of this title], the amendments made by this Act [enacting section 280b-12 of this title and amending this section and sections 280b-3 to 280b-9 of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1970."

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91-212 provided that: "This Act [enacting section 280b-12 of this title and amending sections 201, 276 to 278, 280, 280a-1, 280b, 280b-2 to 280b-9, 280b-11 of this title] may be cited as the "Medical Library Assistance Extension Act of 1970."

SHORT TITLE

Section 1 of Pub. L. 89-291 provided that: "This Act [enacting sections 280a-1 of this title and this part and amending section 277 of this title] may be cited as the 'Medical Library Assistance Act of 1965'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b-1, 280b-2, 280b-4, 280b-5, 280b-6, 280b-7, 280b-8, 280b-9, 280b-10, 280b-11, 293b of this title.

§ 280b-1. Definitions.

As used in this part—

(1) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto;

(2) the terms "National Medical Libraries Assistance Advisory Board" and "Board" mean the Board of Regents of the National Library of Medicine established under section 277(a) of this title;

(3) the terms "construction" and "cost of construction", when used with reference to any medical library facility, include (A) the construction of new buildings, and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition or land or off-site improvements, and (B) equipping new buildings and existing buildings (whether or not expanded, remodeled, or altered) for use as a library (including provision of automatic data processing equipment), but not with books, pamphlets, or related material;

(4) the term "medical library" means a library related to the sciences related to health.

(July 1, 1944, ch. 373, title III, § 391, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1059, and amended Mar. 13, 1970, Pub. L. 91-212, § 10(b)(3), 84 Stat. 66.)

AMENDMENTS

1970—Par. (2). Pub. L. 91-212, substituted "section 383(a)" for "section 373(a)" which for purposes of codification has been editorially translated as "section 277(a) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-2, 280b-7, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-2. National Medical Libraries Assistance Advisory Board.

(a) Composition.

The Board of Regents of the National Library of Medicine established pursuant to section 277(a) of this title shall, in addition to its functions prescribed under section 277 of this title, constitute and serve as the National Medical Libraries Assistance Advisory Board (hereinafter in this part referred to as the "Board").

(b) Functions.

The Board shall—

(1) advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part, and

(2) consider all applications for construction grants under this part and make to the Secretary such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted

to each applicant whose application, in its opinion, should be approved.

(c) Authorization to use services of members for periods in addition to conference periods.

The Secretary is authorized to use the services of any member or members of the Board, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine.

(d) Compensation; travel expenses.

Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Secretary in connection with the administration of this part, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 277(d) of this title, when attending conferences, traveling, or serving at the request of the Secretary in connection with the administration of part I of this subchapter which deals with the National Library of Medicine. (July 1, 1944, ch. 373, title III, § 392, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1060, and amended Mar. 13, 1970, Pub. L. 91-212, § 10(b)(4), (d)(2)(A), 84 Stat. 66, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, § 10(b)(4)(A), (B), substituted "section 383(a)" and "section 383" for "section 373(a)" and "section 373", respectively, which for purposes of codification have been editorially translated as "section 277(a) of this title" and "section 277 of this title".

Subsecs. (b), (c). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (b) and (c).

Subsec. (d). Pub. L. 91-212, § 10(b)(4)(C)(D), (d)(2)(A), substituted "section 383(d)" and "Part I" for "section 373(d)" and "Part H which deals with the National Library of Medicine," respectively, which for purposes of codification have been editorially translated as "section 277(d) of this title" and "sections 275 to 280a of this title," and substituted "Secretary" for "Surgeon General" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (b) to (d) by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-7, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-3. Grants for construction of facilities.

(a) Authorization.

In carrying out the purposes of section 280b(b)(1) of this title, the Secretary may, upon application of any public or private nonprofit agency or institution, make grants to such agency or institution toward the cost of construction of any medical library facility to be constructed by such agency or institution.

(b) Conditions prerequisite to approval.

A grant under this section may be made only if the application therefor is recommended for approval by the Board and is approved by the Secretary upon his determination that—

(1) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used as a medical library facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the purpose for which it is being constructed;

(2) the proposed construction is necessary to meet the demonstrated needs for additional or improved medical library facilities in the community or area in which the proposed construction is to take place;

(3) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on projects of the type covered by the Davis-Bacon Act, as amended, will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

(c) Factors considered in acting upon application.

In acting upon applications for grants under this section, the Board and the Secretary shall take into consideration the relative effectiveness of the proposed facilities in meeting demonstrated needs for additional or improved medical library services.

(d) Amount of grant; limitation.

The amount of any grant made under this section shall be that recommended by the Board or such lesser amount as the Secretary determines to be appropriate; except that in no event may such amount exceed 75 per centum of the necessary cost of the construction of such facility as determined by him.

(e) Reservation of amount; payments.

Upon approval of any application for a grant under this section, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (e) of this section, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement facilities of the Department of the Treasury. The Secretary's reservation of any amount under this subsection may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(f) Computation of amount; exclusions from cost of construction.

In determining the amount of any grant under this section, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be

financed in part by grants authorized under this section, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(g) Recovery of funds.

If, within twenty years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(2) the facility shall cease to be used for medical library purposes, unless the Secretary determines, in accordance with regulations prescribed by him after consultation with the Board, that there is good cause for releasing the applicant or other owner from the obligation to do so.

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(h) Authorization of appropriations.

For the purposes of carrying out the provisions of this section, there are hereby authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $13,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title III, § 393, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1060, and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(a), 3, 10(d)(2), 84 Stat. 63, 64, 67.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (b)(3), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan No. 14 of 1950, referred to in subsec. (b)(3), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

Subsec. (b). Pub. L. 91-212, §§ 3(1), 10(d)(2)(A), struck out "subject to subsection (c) of this section," preceding "sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility,", and substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 91-212, §§ 3(2), (3), 10(d)(2)(A), struck out subsec. (c), which authorized the conditional approval of applications, redesignated former subsec. (d) as subsec (c), and, in subsec. (c), as so redesignated, substituted "Secretary" for "Surgeon General" and struck out the requirement that the Board and the Secretary give priority to applications for construction of facilities for which the need is greatest.

Subsec. (d). Pub. L. 91-212, §§ 3(2), 10(d)(2)(A), redesignated former subsec. (e) as (d), and, as so redesignated, substituted "Secretary" for "Surgeon General". Former subsec. (d) was redesignated as (c).

Subsec. (e). Pub. L. 91-212, §§ 3(2), 10(d)(2)(A), (B), redesignated former subsec. (f) as (e), and, as so redesignated as (d).

Subsec. (f). Pub. L. 91-212, § 3(2), redesignated former subsec. (g) as (f). Former subsec. (f) was redesignated as (e).

Subsec. (g). Pub. L. 91-212, §§ 3(2), 10(d)(2)(A), redesignated former subsec. (h) as (g), and, as so redesignated, substituted "Secretary" for "Surgeon General". Former subsec. (g) was redesignated as (f).

Subsec. (h). Pub. L. 91-212, §§ 2(a), 3(2), redesignated former subsec. (i) as (h), and, as so redesignated, substituted provisions which authorized appropriations of $11,000,000 for the fiscal year ending June 30, 1971, $12,000,000, for the fiscal year ending June 30, 1972, and $13,000,00 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations for each fiscal year, beginning with the fiscal year ending June 30, 1967, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $10,000,000 for any fiscal year. Former subsec. (h) was redesignated as (g).

Subsec. (i). Pub. L. 91-212, § 3(2), redesignated former subsec. (i) as (h).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (b) to (i) by sections 2(a) and 3(1) to (3) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

Amendment of subsecs. (a) to (e) and (g) by section 10(d)(2) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-7, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-4. Grants for training in medical library sciences.

(a) In order to enable the Secretary to carry out the purposes of section 280(b)(2) of this title, there are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1971, $1,750,000 for the fiscal year ending June 30, 1972, and $2,000,000 for the fiscal year ending June 30, 1973. Sums made available under this section shall be utilized by the Secretary in making grants—

(1) to individuals to enable them to accept traineeships and fellowships leading to postbaccalaureate academic degrees in the field of medical library science, in related fields pertaining to sciences related to health, or in the field of the communication of information;

(2) to individuals who are librarians or specialists in information on sciences relating to health, to enable them to undergo intensive training or retraining so as to attain greater competence in their occupations (including competence in the fields of automatic data processing and retrieval);

(3) to assist appropriate public and private nonprofit institutions in developing, expanding, and improving, training programs in library science and the field of communications of information pertaining to sciences relating to health; and

(4) to assist in the establishment of internship programs in established medical libraries meeting standards which the Secretary shall prescribe.

(b) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board. (July 1, 1944, ch. 373, title III, § 394, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1062, and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(b), (10(d)(2)(A), 84 Stat. 63, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, §§ 2(b), 10(d)(2)(A), substituted provisions which authorized appropriations of $1,500,000 for the fiscal year ending June 30, 1971, $1,750-000 for the fiscal year ending June 30, 1972, and $2,000,000 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $1,000,000 for any fiscal year, and substituted "Secretary" for "Surgeon General" wherever appearing.

Subsec. (b). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsec. (a) by section 2(b) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

Amendment of section by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-7, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-5. Assistance for special scientific projects, and research and development in medical library science and related fields.

(a) Grants for compilation or writing of contributions relating to advancements in sciences related to health.

In order to enable the Secretary to carry out the purposes of section 280(b)(3) of this title, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1973, such sums, not to exceed $500,000 for any fiscal year, as may be necessary. Sums made available under this subsection shall be utilized by the Secretary to make grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural, advancements in sciences related to health. In making such grants, the Secretary shall make appropriate arrangements whereby the facilities of the National Library of Medicine and the facilities of libraries of public and nonprofit institutions of higher learning may be made available in connection with the projects for which such grants are made.

(b) Grants for special projects in medical library science and related fields.

In order to enable the Secretary to carry out the purposes of section 280 (b)(4) of this title, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1973, such sums, not to exceed $3,000,000 for any fiscal year, as may be necessary. Sums made available under this subsection shall be utilized by the Secretary in making grants to appropriate public or private nonprofit institutions and entering into contracts with appropriate persons, for purposes of carrying out projects of research, investigations, and demonstrations in the field of medical library science and related activities and for the development of new techniques, systems and equipment, for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

(c) Manner of payment; regulations.

Payment pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board. (July 1, 1944, ch. 373, title III, § 395, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1062, and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(c), (d), 4(a), 5(a), 10(c)(1)(A), (B), (2)(A)-(C), (d)(2)(A), 84 Stat. 63, 64, 66, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, §§ 2(c), 4(a)(1), (2), 10(c)(1)(A), (B), (d)(2)(A), designated existing provisions as subsec. (a), and, as so designated, substituted "Secretary" for "Surgeon General" wherever appearing, extended the authorization for appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1973, substituted a reference to this subsection for a reference to this section, substituted references to grants for references to special fellowships, and provided that such grants be made to public or nonprofit private institutions on behalf of qualified individuals.

Subsec. (b). Pub. L. 91-212, §§ 2(d), 5(a), 10(c)(2)(A), (B), (d)(2)(A), redesignated former section 280b-6(a) as subsec. (b), and, as so redesignated, substituted "Secretary" for "Surgeon General" wherever appearing, extended the authorization for appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1973, substituted a reference to this subsection for a reference to this section, and added demonstrations as projects for which authorized sums could be utilized.

Subsec. (c). Pub. L. 91-212, § 10(c)(2)(C), (d)(2)(A), redesignated former section 280b-6(b) as subsec. (c), and, as so redesignated, substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of section by sections 2(c), (d), 4(a), 5(a), and 10(c) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

Amendment of section by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-7, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-6. Grants for research and development in medical library science and related fields.

CODIFICATION

Section, act July 1, 1944, ch. 373, title III, § 396, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1063 was redesignated as subsecs. (b) and (c) of section 280b-5 of this title by Pub. L. 91-212, § 10(c)(2), Mar. 13, 1970, 84 Stat. 66.

§ 280b-7. Grants for establishing, expanding, and improving basic medical library or related resources.

In order to enable the Secretary to carry out the purposes of section 280b(b)(5) of this title, there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $4,500,000 for the fiscal year ending June 30, 1973.

(b) Uses for which grants may be employed.

Sums made available under this section shall be utilized by the Secretary for making grants of money,

materials, or both, to public or private nonprofit medical libraries and related scientific communication instrumentalities for the purpose of establishing, expanding, and improving their basic medical library or related resources. The uses for which grants so made may be employed include, but are not limited to, the following: (A) acquisition of books, journals, photographs, motion picture and other films, and other similar materials, (B) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality, and (C) acquisition of duplication devices, facsimile equipment, film projectors, recording equipment, and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it, and (D) introduction of new technologies in medical librarianship.

(c) Computation of amount of grant; factors considered in determining scope of services provided by library; maximum amount of grant.

(1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Secretary on the basis of the scope of library or related servivces provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Secretary shall take into account the following factors—

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentality is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities.

(2) In no case shall any grant under this section to a medical library or related instrumentality for any fiscal year exceed $200,000; and grants to such medical libraries or related instrumentalities shall be in such amounts as the Secretary may by regulation prescribe with a view to assuring adequate continuing financial support for such libraries or instrumentalities from other sources during and after the period for which Federal assistance is provided. (July 1, 1944, ch. 373, title III, § 396, formerly § 397, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1063, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(e), 6(a)(1), (2), 10(c)(3), (d)(2)(A), 84 Stat. 63, 64, 66, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, §§ 2(e), 10(d)(2)(A), substituted "Secretary" for "Surgeon General", and substituted provisions which authorized appropriations of $3,500,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $4,500,000 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $3,000,000 for any fiscal year.

Subsec. (b). Pub. L. 91-212, §§ 6(a)(1), 10(d)(2)(A), added establishment of basic medical libraries as purpose for which grants could be utilized and substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 91-212, §§ 6(a)(2), 10(d)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing, struck out the requirement that the amount of a grant be determined as a proportion of the annual operating expenses of applicant libraries and that the amount of subsequent grants decrease annually as a proportion of either the library's annual operating expenses or, if lesser, the prior year's grant, and added the requirement that such grants not exceed $200,000 for any fiscal year and be in such amounts as the Secretary may prescribe by regulation in order to assure that adequate financial support from other sources continue during and after the period of Federal assistance.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by sections 2(e) and 6(a) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

Amendment by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-8. Grants for establishment of regional medical libraries.

(a) Appropriations.

In order to enable the Secretary to carry out the purposes of section 280b(b)(6) of this title, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1971, $3,250,000 for the fiscal year ending June 30, 1972, and $3,500,000 for the fiscal year ending June 30, 1973. Sums made available under this section shall be utilized by the Secretary with the advice of the Board, to make grants to existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

(b) Uses for which grants may be employed.

The uses for which grants made under this section may be employed include, but are not limited to, the following—

(1) acquisition of books, journals, and other similar materials;

(2) cataloging, binding, and other procedures for processing library resource materials for use by those who are served by the library;

(3) acquisition of duplicating devices and other equipment to facilitate the use of the resources of the library by those who are served by it;

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of materials from the regional library to local libraries in the geographic area served by the regional library;

(5) planning for services and activities under this section; and

(6) construction, renovation, rehabilitation, or expansion of physical plant considered necessary by such library to carry out its proper functions as a regional library.

(c) Conditions prerequisite; priorities.

(1) Grants under this section shall be made only to medical libraries which agree (A) to modify and increase their library resources, and to supplement the resources of cooperating libraries in the region, so as to be able to provide adequate supportive services to all libraries in the region as well as to individual users of library services, (B) to provide free loan services to qualified users, and make available photoduplicated or facsimile copies of biomedical materials which qualified requesters may retain.

(2) The Secretary, in awarding grants under this section, shall give priority to medical libraries having the greatest potential of fulfilling the needs for regional medical libraries. In determining the priority to be assigned to any medical library, he shall consider—

(A) the adequacy of the library (in terms of collections, personnel, equipment, and other facilities) as a basis for a regional medical library; and

(B) the size and nature of the population to be served in the region in which the library is located.

(d) Manner of making and conditions governing grants; maximum amount.

Grants under this section for construction, renovation, rehabilitation, or expansion of physical plant shall be made in the same manner and subject to the same conditions as are provided for grants made under section 280b-3 of this title, except that the eligibility for any such grant would be determined on the basis of the construction requirements of the library so as to be able to serve as a regional medical library. Grants under this section for basic resource materials to a library may not exceed 50 per centum of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or in case of the first year in which the library receives a grant under this section for basic resource materials, 50 per centum of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Secretary in acocrdance with regulations prescribed by him).

(e) Payments.

Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

(f) Authority to contract; limitations.

The Secretary may also carry out the purposes of this section through contracts, and such contracts shall be subject to the same limitations as are provided in this section for grants (July 1, 1944, ch. 373, title III, § 397, formerly § 398, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1065, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, §§ 2(f), 7, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, §§ 2(f), 10(d)(2)(A), substituted provisions which authorized appropriations of $3,000,000 for the fiscal year ending June 30, 1971, $3,250,000 for the fiscal year ending June 30, 1972, and $3,500,000 for the fiscal year ending June 30, 1973, for provisions which authorized appropriations for each fiscal year, beginning wth the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, of such sums as may be necessary, not to exceed $2,500,000 for any fiscal year, and substituted "Secretary" for "Surgeon General" wherever appearing.

Subsec. (b). Pub. L. 91-212, § 7(1), redesignated existing par. (5) as par. (6) and added new par. (6).

Subsec. (c)(1). Pub. L. 91-212, § 7(2), added requirement that medical libraries agree to supplement the resources of cooperating libraries in the region.

Subsec. (c)(2). Pub. L. 91-212, §§ 7(3), 10(d)(2)(A), struck out cl. (A) relating to the determination of the need of such a library and redesignated existing cls. (B) and (C) as cls. (A) and (B), and substituted "Secretary" for "Surgeon General".

Subsecs. (d), (e). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General" wherever appearing in subsecs. (d) and (e).

Subsec. (f). Pub. L. 91-212, § 7(4), added subsec. (f).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (a), (b), (c) and (f) by sections 2(f), 7(1)—(4) of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

Amendment of subsecs. (a), (c)(2), (d), (e), and (f) by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280a-1, 280b, 280b-1, 280b-2, 280b-7, 280b-10, 280b-11, 293b of this title.

§ 280b-9. Grants to provide support for biomedical scientific publications.

(a) Appropriations.

In order to enable the Secretary to carry out the purposes of section 280b(b)(7) of this title there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1973, such sums, not to exceed $1,000,000 for any fiscal year, as may be necessary. Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, in making grants to, and entering into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a nonprofit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

(b) Duration.

Grants under this section in support of any single periodical publication may not be made for more than three years, except in those cases in which the Secretary determines that further support is necessary to carry out the purposes of this section.

(c) Payments.

Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board, July 1, 1944, ch. 373, title III, § 398, formerly § 399, as added Oct. 22, 1965, Pub. L. 89-921, § 2, 79 Stat. 1066, and renumbered and amended Mar. 3, 1970, Pub. L. 91-212, §§ 2(g), 8, 10(c)(3), (d)(2)(A), 84 Stat. 63, 65, 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, §§ 2(g), 10(d)(2)(A), extended authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1973, and substituted "Secretary" for "Surgeon General" wherever appearing.

Subsec. (b). Pub. L. 91-212, § 8, authorized the Secretary to extend grants beyond three years when determined by him to be necessary to carry out the purposes of this section.

Subsec. (c). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (a) and (b) by sections 2(g) and 8 of Pub. L. 91-212 applicable with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

Amendment of subsecs. (a) and (c) by section 10(d)(2)(A) of Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-7, 280b-8, 280b-10, 280b-11, 293b of this title.

§ 280b-10. Continuing availability of appropriated funds.

Funds appropriated to carry out any of the purposes of this part for any fiscal year shall remain available for such purposes for the fiscal year immediately following the fiscal year for which they were appropriated. (July 1, 1944, ch. 373, title III, § 399, formerly § 399a, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1066, and renumbered Mar. 13, 1970, Pub. L. 91-212, § 10(c)(3), 84 Stat. 67.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-7, 280b-8, 280b-11, 293b of this title.

§ 280b-11. Records and audit.

(a) Each recipient of a grant under this part of this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to any grant received under the provisions of this part (July 1, 1944, ch. 373, title III, § 399a, formerly § 399b, as added Oct. 22, 1965, Pub. L. 89-291, § 2, 79 Stat. 1066, and renumbered and amended Mar. 13, 1970, Pub. L. 91-212, § 10(c)(3), (d)(2)(A), 84 Stat. 67.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-212, § 10(d)(2)(A), substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-212 effective Mar. 13, 1970, see section 12(b) of Pub. L. 91-212, set out as a note under section 276 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 280b, 280b-1, 280b-2, 280b-7, 280b-8, 280b-10, 293 of this title.

§ 280b-12. Transfer of funds.

(a) Not withstanding any other provision of this part, whenever there is appropriated any amount for any fiscal year (beginning with the fiscal year ending June 30, 1971) to carry out any particular program or activity authorized by this part, the Secretary shall have the authority to transfer sums from such amount, for the purpose of carrying out one or more of the other programs or activities authorized by this part; except that—

(1) the aggregate of the sums so transferred from any such amount shall not exceed 10 per centum thereof,

(2) the aggregate of the sums so transferred to carry out any such program or activity for any fiscal year shall not exceed 20 per centum of the amount appropriated to carry out such program or activity for such year, and

(3) sums may not be transferred for any fiscal year to carry out any such program or activity if such transfer would result in there being available (from appropriated funds plus the sums so transferred) to carry out such program or activity for such year amounts in excess of the amounts authorized to be appropriated for such year to carry out such program or activity.

(b) Any sums transferred under subsection (a) of this section for any fiscal year for the purpose of carrying out any program or activity shall remain available for such purpose to the same extent as are funds which are specifically appropriated for such purpose for such year. (July 1, 1944, ch. 373, title III, § 399b, as added Mar. 13, 1970, Pub. L. 91-212, § 9, 84 Stat. 65.)

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal years ending after June 30, 1970, see section 12(a) of Pub. L. 91-212, set out as a note under section 280b of this title.

SUBCHAPTER III.—NATIONAL RESEARCH INSTITUTES

AMENDMENTS

1950—Act Aug. 15, 1950, ch. 714, § 2(a), 64 Stat. 444, substituted "National Research Institutes" for "National Cancer, Heart, and Dental Institutes" as the subchapter heading.

1948—Act June 24, 1948, ch. 621, § 3(a), 62 Stat. 598, substituted "National Cancer, Heart, and Dental Institutes" for "National Cancer and Heart Institutes" as the subchapter heading.

Act June 16, 1948, ch. 481, § 3, 62 Stat. 464, substituted "National Cancer and Heart Institutes" for "National Cancer Institute" as the subchapter heading.

PART A.—NATIONAL CANCER INSTITUTE

AMENDMENTS

1948—Act June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464, added heading of Part A.

§ 281. Division in National Institutes of Health.

The National Cancer Institute shall be a division in the National Institutes of Health. (July 1, 1944, ch. 373, title IV, § 401, 58 Stat. 707; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, substituted "National Institutes of Health" for "National Institute of Health".

CROSS REFERENCES

April as Cancer Control Month, see section 150 of Title 36, Patriotic Societies and Observances.

§ 282. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to cancer the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Council, shall—

(a) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(b) Coordination of researches.

Promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals:

(c) Technical training and instruction.

Provide training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(d) Establishment of fellowships.

Provide fellowships in the Institute from funds appropriated or donated for such purpose;

(e) Securement of expert advice.

Secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

(f) Cooperation with State agencies.

Cooperate with State health agencies in the prevention, control, and eradication of cancer:

(g) Acquisition, use, and loan of radium.

Procure, use, and lend radium as provided in section 283 of this title. (July 1, 1944, ch. 373, title IV, § 402, 58 Stat. 707.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 283, 284, of this title.

§ 283. Administration of powers by Surgeon General; radium; technical instruction and training; acceptance of gifts; memorials; grants-in-aid.

(a) In carrying out the provisions of section 282 of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and he is authorized—

(1) to purchase radium, from time to time, without regard to section 5 of Title 41 to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe;

(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to diagnosis and treatment of cancer to persons found by the Surgeon General to have proper technical qualifications, and designated by him for such training or instruction, and to fix and pay them a per diem allowance during such training or instruction of not to exceed $10.

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Council. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) In carrying out the purposes of section 282 of this title grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Council made pursuant to section 284 of this title. (July 1, 1944, ch. 373, title IV, § 403, 58 Stat. 707; June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, substituted "this part" for "this subchapter" wherever appearing.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 282 of this title.

§ 284. Functions of council.

The council is authorized—

(a) Review of research problems.

To review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 282 of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

(b) Collection and dissemination of information.

To collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(c) Review of applications by research institutions for grants-in-aid.

To review applications from any university, hospital, laboratory, or other institution whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of cancer;

(d) Recommendations for acceptance of conditional gifts.

To recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title; and

(e) Recommendations for administration of laws.

To make recommendations to the Surgeon General with respect to carrying out the provisions of this part. (July 1, 1944, ch. 373, title IV, § 404, 58 Stat. 708; June 16, 1948, ch. 481, § 6(c), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, substituted "sections 281—286 of this title" for "this subchapter" wherever appearing.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 283 of this title.

§ 285. Use of appropriations.

Appropriations to carry out the purposes of this subchapter shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 5 of Title 41; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this subchapter. (July 1, 1944, ch. 373, title IV, § 405, 58 Stat 708.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 286. Additional authority.

This part shall not be construed as limiting (a) the functions or authority of the Surgeon General of the Public Health Service under any other subchapter of this chapter, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this chapter; or (b) the expenditure of money therefor. (July 1, 1944, ch. 373, title IV, § 406, 58 Stat. 708; June 16, 1948, ch. 481, § 6(c), 62 Stat. 469; Aug. 15, 1950, ch. 714, § 4(a), 64 Stat. 447.)

AMENDMENTS

1950—Act Aug. 15, 1950, made section applicable to any disease or diseases.

1948—Act June 16, 1948, substituted "sections 281—286 of this title" for "this subchapter" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289 of this title.

PART B.—NATIONAL HEART INSTITUTE

AMENDMENTS

1948—Act June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464, added heading of Part B.

§ 287. Establishment of Institute.

There is established in the Public Health Service a National Heart Institute (hereafter in this part referred to as the "Institute"). (July 1, 1944, ch. 373, title IV, § 411, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464.)

SHORT TITLE

Section 1 of act June 16, 1948, provided that: "This Act [which enacted sections 287—287c of this title, and amended sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 283, and 286 of this title] may be cited as the 'National Heart Act'."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

PURPOSE OF THIS PART

Section 2 of act June 16, 1948, provided that: "The purpose of this Act [sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 284, 286, and 287 to 287d of this title] is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart and circulation; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to heart diseases, including refresher courses for physicians; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of heart diseases."

§ 287a. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to heart diseases the Surgeon General, through the Institute and in cooperation with the National Advisory Heart Council (hereinafter in this part referred to as the "Council"), shall—

(a) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart diseases;

(b) Coordination of research and control programs.

Promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(c) Research facilities made available.

Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

(d) Grants-in-aid for research projects.

Make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart diseases as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(e) Establishment of information center.

Establish an information center on research, prevention, diagnosis, and treatment of heart diseases, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to this part;

(f) Securement of expert advice and services.

Secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart diseases;

(g) Establishment of fellowships and traineeships.

In accordance with regulations and from funds appropriated or donated for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions. (July 1, 1944, ch. 373, title IV, § 412, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 287b, 287c of this title.

§ 287b. Administration of powers by Surgeon General; acceptance of gifts; memorials.

(a) In carrying out the provisions of section 287a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for heart disease research and training projects shall be made only after review and recommendation of the Council made pursuant to section 287c of this title.

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart diseases, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (July 1, 1944, ch. 373, title IV, § 413, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

Reference to the Federal Security Administrator in subsec. (b) was changed to the Secretary of Health, Education, and Welfare pursuant to 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare. All agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 287c. Functions of Council.

The Council is authorized to—

(a) Review of research problems.

Review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart diseases, and certify approval to the Surgeon

General, for prosecution under section 287a of this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart diseases;

(b) Review applications for grants-in-aid for research.

Review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart diseases, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart disease;

(c) Review applications for grants-in-aid for traineeships.

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart diseases, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter;

(d) Collection and dissemination of information.

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart diseases, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private) physicians, or any other scientists, and for the information of the general public;

(e) Recommendations for acceptance of conditional gifts.

Recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of this part; and

(f) Recommendations for administration of laws.

Advise, consult with, and make recommendations to the Surgeon General with respect to carrying out the provisions of this part. (July 1, 1944, ch. 373, title IV, § 414, as added June 16, 1948, ch. 481, § 3(b), 62 Stat. 464.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 287b of this title.

§ 287d. Repealed. Aug. 15, 1950, ch. 714, § 4 (c), 64 Stat. 447.

Section, act July 1, 1944, ch. 373, title IV, § 415, as added June 16, 1948, ch. 621, § 3 (b), 62 Stat. 598, which related to additional authority with respect to heart diseases, is now covered by section 286 of this title.

PART C.—NATIONAL INSTITUTE OF DENTAL RESEARCH

AMENDMENTS

1948—Act June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, added heading of Part C.

§ 288. Establishment of Institute.

There is established in the Public Health Service a National Institute of Dental Research (hereafter in this part referred to as the "Institute"). (July 1, 1944, ch. 373, title IV, § 421, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598.)

SHORT TITLE

Section 1 of act June 24, 1948, provided that: "This Act [which enacted this part, and amended sections 201, 210, 218, and 241 of this title] may be cited as the "National Dental Research Act".

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

PURPOSE OF THIS PART

Section 2 of act June 24, 1948, provided that: "The purpose of this Act [sections 201, 210, 218, 241, and 288—288c of this title] is to improve the dental health of the people of the United States through the conduct of researches, investigations, experiments, and studies relating to the cause, diagnosis, and treatment of dental diseases and conditions; assist and foster such researches and other activities by public and private agencies; provide training in matters relating to dental diseases and conditions; and promote the coordination of all such researches and activities and the useful application of their results, with a view to the development and prompt widespread use of the most effective methods of prevention, diagnosis, and treatment of dental diseases and conditions."

APPROPRIATION FOR CONSTRUCTION OF RESEARCH FACILITIES

Section 5 of act June 24, 1948, as amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; July 19, 1956, ch. 637, 70 Stat. 578, authorized an appropriation of a sum not to exceed $4,000,000 for the erection and equipment of suitable and adequate buildings and facilities for the use of the National Institute of Dental Research and authorized the Administrator of General Services to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities.

§ 288a. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in this part referred to as the "Council"), shall—

(a) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

(b) Coordination of research programs.

Promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals:

(c) Establishment of fellowships.

Provide fellowships in the Institute from funds appropriated or donated for the purpose;

(d) Securement of expert advice and services.

Secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(e) Cooperation with State health agencies.

Cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(f) Establishment of traineeships.

Provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions. (July 1, 1944, ch. 373, title IV, § 422, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 288b, 288c of this title.

§ 288b. Administration of powers by Surgeon General; acceptance of gifts; memorials.

(a) In carrying out the provisions of section 288a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 288c of this title.

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (July 1, 1944, ch. 373, title IV, § 423, as added June 24, 1948, ch. 621, § 3(b), 62 Stat. 598, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

Reference to the Federal Security Administrator in subsec. (b) was changed to the Secretary of Health, Education, and Welfare, pursuant to 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare. All agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 288c. Functions of Council.

The Council is authorized to—

(a) Review of research problems.

Review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the Surgeon General, for prosecution under section 288a (a) of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions;

(b) Collection and dissemination of information.

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;

(c) Review applications for grants-in-aid for research.

Review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

(d) Recommendations for acceptance of conditional gifts.

Recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of this part;

(e) Recommendations for administration of laws.

Make recommendations to the Surgeon General with respect to carrying out the provisions of this part; and

(f) Review applications for grants-in-aid for traineeships.

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to

the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter. (July 1, 1944, ch. 373, title IV, § 424, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 288b of this title.

§§ 288d, 288e. Repealed. Aug. 15, 1950, ch. 714, § 4 (c), 64 Stat. 447.

Section 288d, act July 1, 1944, ch. 373, title IV, § 425, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, which related to additional authority with respect to dental diseases, is now covered by section 286 of this title.

Section 288e, act July 1, 1944, ch. 373, title IV, § 426, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, related to annual appropriations.

PART D.—NATIONAL INSTITUTE ON ARTHRITIS, RHEUMATISM, AND METABOLIC DISEASES, NATIONAL INSTITUTE ON NEUROLOGICAL DISEASES AND STROKE, AND OTHER INSTITUTES

AMENDMENTS

1950—Act Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444, added heading of Part D.

§ 289. Congressional declaration of purpose.

The purpose of sections 210 (c), (g), 218, 286, and this part is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy, and other diseases; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to such diseases; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of such diseases. (Aug. 15, 1950, ch. 714, § 1, 64 Stat. 443.)

CODIFICATION

Section was not enacted as a part of the Public Health Service Act which comprises this chapter.

§ 289a. Establishment of Institutes; abolishment; expansion of already established Institutes.

(a) The Surgeon General shall establish in the Public Health Service an institute for research on arthritis, rheumatism, and metabolic diseases, and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also establish a national advisory council or committee for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council or committee is concerned.

(b) The Surgeon General is authorized with the approval of the Secretary to establish in the Public Health Service one or more additional institutes to conduct and support scientific research and professional training relating to the cause, prevention, and methods of diagnosis and treatment of other particular diseases or groups of diseases (including poliomyelitis and leprosy) whenever the Surgeon General determines that such action is necessary to effectuate fully the purposes of section 241 of this title with respect to such disease or diseases. Any institute established pursuant to this subsection may in like manner be abolished and its functions transferred elsewhere in the Public Health Service upon a finding by the Surgeon General that a separate institute is no longer required for such purposes. In lieu of the establishment pursuant to this subsection of an additional institute with respect to any disease or diseases, the Surgeon General may expand the functions of any institute established under subsection (a) of this section or under any other provision of this chapter so as to include functions with respect to such disease or diseases and to terminate such expansion and transfer the functions given such institute elsewhere in the Service upon a finding by the Surgeon General that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Surgeon General may change the title thereof so as to reflect its new functions. (July 1, 1944, ch. 373, title IV, § 431, as added Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(a)(2), 84 Stat 1310.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515 added "or committee" following "council" wherever appearing therein.

INSTITUTE FOR NEUROLOGICAL DISEASES AND STROKE

Section 7 of Pub. L. 90-639, Oct. 24, 1968, 82 Stat. 1362, provided in part that: "The name of the National Institute of Neurological Diseases and Blindness is hereby changed to the 'National Institute for Neurological Diseases and Stroke'."

TRANSFER OF FUNCTIONS

Reference to the Federal Security Administrator was changed to the Secretary of Health, Education, and Welfare pursuant to 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare. All agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289b of this title.

§ 289b. Establishment of national advisory councils or committees; composition; qualifications; appointment and tenure; expansion of functions of already established councils or committees.

(a) The Surgeon General is also authorized with the approval of the Secretary of Health, Education, and Welfare to establish additional national advisory councils or committees to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of any institute established under subsection (b) of section 289a of this title, or relating to the conduct and support of research and training in such disease or group of diseases (except a disease or group of diseases for which an institute is established under any provision of this subchapter other than section 289a (b) of this title) as he may designate. Any such council, and each of the two councils or committees established under section 289a(a) of this title, shall consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members, and of twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed. Each appointed member of the council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) In lieu of appointment of an additional advisory council or committee upon the establishment pursuant to subsection (b) of section 289a of this title of an additional institute or upon expansion pursuant to such subsection of the functions of an institute, the Surgeon General may expand the functions of an advisory council or committee established under section 289a (a) of this title or any other provision of this chapter so as to include functions with respect to the particular disease or diseases to which the activities of the additional institute or the expanded activities of the existing institute are directed. In the case of any such expansion of an existing council or committee, the membership thereof representing persons outstanding in activities with which the council or committee is concerned may be changed or increased so as to include some persons outstanding in the new activities. Any new council or committee established under subsection (a) of this section or any expansion of an existing council or committee under this subsection may be terminated by the Surgeon General at, before, or after the termination of the new institute or expansion of the existing institute which occasioned such new council or committee or expansion of an existing council or committee. In the case of any such expansion of an existing council or committee the Surgeon General may change the title thereof so as to reflect its new functions. July 1, 1944, ch. 373, title IV, § 432, as added Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(a)(1), (2), 84 Stat. 1310.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 601(a)(1), added "or committees" following "councils" wherever appearing therein.

Subsec. (b). Pub. L. 91–515, § 601(a)(2), added "or committee" following "council" wherever appearing therein.

CHANGE OF NAME

Name of National Institute of Neurological Diseases and Blindness changed to National Institute of Neurological Diseases and Stroke, see section 1 of Pub. L. 90–489, Aug. 16, 1968, 82 Stat. 772, set out as a note under section 289a of this title.

TRANSFER OF FUNCTIONS

Reference to the Federal Security Administrator was changed to the Secretary of Health, Education, and Welfare pursuant to 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare. All agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289f, 289j of this title.

§ 289c. Same; functions.

(a) Where an institute has been established under this part, the Surgeon General shall carry out the purposes of section 241 of this title with respect to the conduct and support of research relating to the disease or diseases to which the activities of the institute are directed, through such institute and in cooperation with the national advisory council or committee established or expanded by reason of the establishment of such institute. In addition, the Surgeon General is authorized to provide training and instruction and establish and maintain traineeships and fellowships, in such institute and elsewhere, in matters relating to the diagnosis, prevention, and

treatment of such disease or diseases with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he may deem necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public and other nonprofit institutions. The provisions of this subsection shall also be applicable to any institute established by any other provision of this chapter to the extent that such institute does not already have the authority conferred by this subsection.

(b) Upon the appointment of a national advisory council or committee for an institute established under this part of the expansion of an existing institute pursuant to said sections, such council or committee shall assume the duties, functions, and powers of the National Advisory Health Council with respect to grants-in-aid for research and training projects relating to the disease or diseases to which the activities of the institute are directed. (July 1, 1944, ch. 373, title IV, § 433, as added Aug. 15, 1950, ch. 714, § 2(b), 64 Stat. 444, and amended Oct. 5, 1961, Pub. L. 87–395, § 7, 75 Stat. 826; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601 (a)(2), 84 Stat. 1310.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515 added "or committee" following "council".

Subsec. (b). Pub. L. 91–515 added "or committee" following "council" wherever appearing therein.

1961—Subsec. (a). Pub. L. 87–395 repealed the phrase "(including grants-in-aid for drawing plans, erection of buildings, and acquisition of land therefor)" which followed "activities of the institute are directed."

CHANGE OF NAME

Name of National Institute of Neurological Diseases and Blindness changed to National Institute of Neurological Diseases and Stroke, see section 1 of Pub. L. 90–489, Aug. 16, 1968, 82 Stat. 772, set out as a note under section 289a of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 7 of Pub. L. 87–395 provided in part that the repeal of the parenthetical phrase in subsec. (a) of this section shall be effective July 1, 1962.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 242a of this title.

PART E.—INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND OF GENERAL MEDICAL SCIENCES

§ 289d. Establishment of institute of child health and human development.

The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the processes of human growth and development, including prenatal development. (July 1, 1944, ch. 373, title IV, § 441, as added Oct. 17, 1962, Pub. L. 87–838, § 1, 76 Stat. 1072.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 289f, 289g of this title.

§ 289e. Establishment of institute of general medical sciences.

The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training in the general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other institutes, or are outside the general area of responsibility of any other institute, established under or by this chapter. (July 1, 1944, ch. 373, title IV, § 442, as added Oct. 17, 1962, Pub. L. 87–839 § 1, 76 Stat. 1072, and amended Oct. 30, 1970, Pub. L. 91–515, title VI, § 602, 84 Stat. 1311.)

AMENDMENTS

1970—Pub. L. 91–515 struck out "research" preceding "training".

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 289f of this title.

§ 289f. Establishment of advisory councils or committees.

(a) Authority of Surgeon General.

The Surgeon General is authorized, with the approval of the Secretary, to establish an advisory council or committee to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of the institute established under section 289d of this title. He may also, with such approval, establish such a council or committee with respect to the activities of the institute established under section 289e of this title.

(b) Composition; terms of office; reappointment of members; qualifications.

The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils or committees under section 289b(a) of this title shall be applicable to any council or committee established under this section, except that, in lieu of the requirement in such sections that six of the members be outstanding in the study, diagnosis, or treatment of a disease or diseases, six of such members shall be selected from leading medical or scientific authorities who are outstanding in the field of research or training with respect to which the council or committee is

being established, and except that the Surgeon General, with the approval of the Secretary, may include on any such council or committee established under this section such additional ex officio members as he deems necessary in the light of the functions of the institute with respect to which it is established.

(c) Duties, functions, and powers.

Upon appointment of any such council or committee, it shall assume all or such part as the Surgeon General may, with the approval of the Secretary, specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Surgeon General may specify (with such approval) of the duties, functions, and powers of any other advisory council or committee established under this chapter relating to such projects. (July 1, 1944, ch. 373, title IV, § 443, as added Oct. 17, 1962, Pub. L. 87–838, § 1, 76 Stat. 1072, and amended Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(a)(1), (2), 84 Stat. 1310.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 601(a)(2), added "or committee" following "council" wherever appearing therein.

Subsec. (b). Pub. L. 91–515, § 601(a)(1), (2), added "or committees" following "councils" and "or committee" following "council" wherever appearing therein.

Subsec. (c). Pub. L. 91–515, § 601(a)(2), added "or committee" following "council" wherever appearing therein.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 289g. Research; training and instruction.

The Surgeon General shall, through an institute established under this part, carry out the purposes of section 241 of this title with respect to the conduct and support of research which is a function of such institute, except that the Surgeon General shall, with the approval of the Secretary, determine the areas in which and the extent to which he will carry out such purposes of section 241 of this title through such institute or an institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter. The Surgeon General is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the institute established under section 289d of this title and elsewhere in matters relating to diagnosis, prevention, and treatment of a disease or diseases or in other aspects of maternal health, child health, and human development, with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions. (July 1, 1944, ch. 373, title IV, § 444, as added Oct. 17, 1962, Pub. L. 87–838, § 1, 76 Stat. 1073.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 289h. Preservation of existing authority.

Nothing in this part shall be construed as affecting the authority of the Secretary under section 192 of this title, or title V of the Social Security Act, or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this chapter for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences. (July 1, 1944, ch. 373, title IV, § 445, as added Oct. 17, 1962, Pub. L. 87–838, § 1, 76 Stat. 1073.)

REFERENCES IN TEXT

Title V of the Social Security Act, referred to in text, is title V of act, Aug. 14, 1935, ch. 531, 49 Stat. 629, which was classified to section 701 et seq. of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

PART F.—NATIONAL EYE INSTITUTE

AMENDMENTS

1968—Pub. L. 90–489, § 1, Aug. 16, 1968, 82 Stat. 771, added heading of Part F.

§ 289i. Establishment of National Eye Institute.

The Secretary is authorized to establish in the Public Health Service an institute for the conduct and support of research for new treatment and cures and training relating to blinding eye diseases and visual disorders, including research and training in the special health problems and requirements of the blind and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight. The Secretary is also authorized to plan for research and training, especially against the main causes of blindness and loss of visual function. (July 1, 1944, ch. 373, title IV, § 451, as added Aug. 16, 1968, Pub. L. 90–489, § 1, 82 Stat. 771.)

§ 289j. Establishment of advisory council or committee.

(a) Authority of Secretary.

The Secretary is authorized to establish an advisory council or committee to advise, consult with, and make recommendations to him on matters relating to the activities of the National Eye Institute.

(b) Composition; terms of office; reappointment of members.

The provisions relating to the composition, terms of office of members, and reappointment of members, of advisory councils under section 289b(a) of this title shall be applicable to the council or committee established under this section, except that

the Secretary may include on such council or committee established under this section such additional ex officio members as he deems necessary.

(c) Duties, functions, and powers.

Upon appointment of such council or committee, it shall assume all or such part as the Secretary may specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council or committee established under this chapter relating to such projects. (July 1, 1944, ch. 373, title IV, § 452, as added Aug. 16, 1968, Pub. L. 90–489, § 1, 82 Stat. 772, and amended Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(a)(2), 84 Stat. 1310.)

AMENDMENTS

1970—Pub. L. 91–515 added "or committee" following "council" wherever appearing therein.

§ 289k. Research; training and instruction.

The Secretary shall, through the National Eye Institute established under this part, carry out the purposes of section 241 of this title with respect to the conduct and support of research with respect to blinding eye diseases and visual disorders associated with general health and well-being, including the special health problems and requirements of the blind and the mechanism of sight and visual function, except that the Secretary shall determine the areas in which and the extent to which he will carry out such purposes of section 241 of this title through such Institute or an institute established by or under other provisions of this chapter, or both of them, when both such institutes have functions with respect to the same subject matter. The Secretary is also authorized to provide training and instruction and establish and maintain traineeships and fellowships, in the National Eye Institute and elsewhere in matters relating to diagnosis, prevention, and treatment of blinding eye diseases and visual disorders with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he deems necessary and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions. (July 1, 1944, ch. 373, title IV, § 453, as added Aug. 16, 1968, Pub. L. 90–489, § 1, 82 Stat. 772.)

PART G.—MISCELLANEOUS PROVISIONS

§ 290. National Institutes of Health Management Fund; establishment; advancements; availability; final adjustments of advances.

For the purpose of facilitating the economical and efficient conduct of operations in the National Institutes of Health which are financed by two or more appropriations where the costs of operation are not readily susceptible of distribution as charges to such appropriations, there is established the National Institutes of Health Management Fund. Such amounts as the Director of the National Institutes of Health may determine to represent a reasonable distribution of estimated costs among the various appropriations involved may be advanced each year to this fund and shall be available for expenditure for such costs under such regulations as may be prescribed by said Director, including the operation of facilities for the sale of meals to employees and others at rates to be determined by said Director to be sufficient to cover the reasonable value of the meals served and the proceeds thereof shall be deposited to the credit of this fund: *Provided,* That funds advanced to this fund shall be available only in the fiscal year in which they are advanced: *Provided further,* That final adjustments of advances in accordance with actual costs shall be effected wherever practicable with the appropriations from which such funds are advanced. (Pub. L. 85–67, title II, § 201, June 29, 1957, 71 Stat. 220; Pub. L. 87–290, title II, § 201, Sept. 22, 1961, 75 Stat. 603.)

CODIFICATION

Section was enacted as a part of the Department of Health, Education, and Welfare Appropriation Act, 1958, and not as a part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1961—Pub. L. 87–290 substituted "reasonable value of the meals served" for "cost of such operation."

SUBCHAPTER IV.—CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 211a, 293a, 2005b, 2005d of this title.

§ 291. Congressional declaration of purpose.

The purpose of this subchapter is—

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

(July 1, 1944, ch. 373, title VI, § 600, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 447.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 291, act July 1, 1944, ch. 373, title VI, § 601, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 6, 63 Stat. 900; July 12, 1954, ch. 471, § 4(a), 68 Stat. 464, prior to the general amendment of this subchapter by Pub. L. 88–443.

EFFECTIVE DATE

Section 3(b) of Pub. L. 88–443, as amended by Pub. L. 91–296, title I, § 120, June 30, 1970, 84 Stat. 343, provided that:

"The amendment made by subsection (a) [adding section 247c of this title, and amending this subchapter generally] shall become effective upon the date of enactment of this Act [Aug. 18, 1964], except that—

"(1) all applications approved by the Surgeon General under title VI of the Public Health Service Act [this subchapter] prior to such date, and allotments of sums appropriated prior to such date, shall be governed by the provisions of such title VI in effect prior to such date;

"(2) allotment percentages promulgated by the Surgeon General under such title VI during 1962 shall continue to be effective for purposes of such title as amended by this Act for the fiscal year ending June 30, 1965;

"(3) the terms of members of the Federal Hospital Council who are serving on such Council prior to such date shall expire on the date they would have expired had this Act not been enacted;

"(4) the provisions of the fourth sentence of section 636(a) of the Public Health Service Act [former section 291n of this title], as in effect prior to the enactment of this Act, shall apply in lieu of the fourth sentence of section 624(a) of the Public Health Service Act, as amended by this Act [section 291n(a) of this title], in the case of any project for construction of a facility or for acquisition of equipment with respect to which a grant for any part thereof or for planning such construction or equipment was made prior to the enactment of this Act;

"(5) no application with respect to a project for modernization of any facility in any State may be approved by the Surgeon General, for purposes of receiving funds from an allotment under section 602(a)(2) of the Public Health Service Act, as amended by this Act [section 291b(a)(2) of this title], before July 1, 1965, or before such State has had a State plan approved by the Surgeon General as meeting the requirements of section 604(a)(4)(E) [section 291d(a)(4)(E) of this title] as well as the other requirements of section 604 of such Act as so amended [section 291d of this title];

"(6) the provisions of clause (b) of section 609 of the Public Health Service Act, as amended by this Act [section 291i of this title], shall apply with respect to any project whether it was approved, and whether the event specified in such clause occurred, before, on, or after the date of enactment of this Act [June 30, 1970], except that it shall not apply in the case of any project with respect to which recovery under title VI of such Act [this subchapter] has been made prior to the enactment of this paragraph."

SHORT TITLE

Section 1 of Pub. L. 88–443 provided that Pub. L. 88–443, which added section 247c of this title, and amended this subchapter generally, may be cited as the "Hospital and Medical Facilities Amendments of 1964."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 291o, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, prior to the general amendment of this subchapter by Pub. L. 88–443.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291a of this title.

PART A.—GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 291j–1 of this title.

§ 291a. Authorization of appropriations.

In order to assist the States in carrying out the purposes of section 291 of this title, there are authorized to be appropriated—

(a) for the fiscal year ending June 30, 1965, and each of the next eight fiscal years—

(1) $85,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) $70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $150,000,000 for the fiscal year ending June 30, 1965, $160,000,000 for the fiscal year ending June 30, 1966, $170,000,000 for the fiscal year ending June 30, 1967, $180,000,000 each for the next two fiscal years, $195,000,000 for the fiscal year ending June 30, 1970, $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, and $157,500,000 for the fiscal year ending June 30, 1973; and

(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), $65,000,000 for the fiscal year ending June 30, 1971, $80,000,000 for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973.

(July 1, 1944, ch. 373, title VI, § 601, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 448, and amended Oct. 15, 1968, Pub. L. 90–574, title IV, § 402(a), 82 Stat. 1011; June 30, 1970, Pub. L. 91–296, title I, §§ 101(a), 102, 116(a), 84 Stat. 337, 341.)

CODIFICATION

A prior section 291a, act July 1, 1944, ch. 373, title VI, § 611, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, authorized appropriations for surveys and planning.

AMENDMENTS

1970—Par. (a). Pub. L. 91–296, §§ 101(a)(1), (2), 116(a), substituted "outpatient facilities" for "diagnostic or treatment centers" in the enumeration of facilities eligible for construction grants, extended through the fiscal year ending June 30, 1973, the authority to appropriate funds for construction grants, increased from $70,000,000 to $85,000,000 the annual authority to make grants for public or other nonprofit facilities for long-term care, from $20,000,000 to $70,000,000 the authority for public or other nonprofit outpatient facilities, and from $10,000,000 to $15,000,000 the authority for public or other nonprofit rehabilitation facilities.

Par. (b). Pub. L. 91–296, §§ 101(a)(3), 102(a)(1), struck out provisions authorizing grants for modernization of facilities and added provisions authorizing the appropriation of $147,500,000 for the fiscal year ending June 30, 1971, $152,500,000 for the fiscal year ending June 30, 1972, and $157,500,000 for the fiscal year ending June 30, 1973, for grants for the construction of public or other nonprofit hospitals and public health centers

Par. (c). Pub. L. 91–296, § 102(a)(2), added par. (c).

1968—Par. (a). Pub. L. 90–574, § 402(a)(1), substituted "next five" for "next four".

Par. (b). Pub. L. 90–574, § 402(a)(2), authorized appropriation of $195,000,000 for the fiscal year ending June 30, 1970.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 101(b) of Pub. L. 91–296 provided that: "The amendments made by subsection (a) [amending par. (a) of this section and authorizing appropriations for fiscal years ending on June 30, 1970, 1971, and 1972, in par. (b) of this section] shall take effect with respect to appropriations made under such section 601 [this section] for fiscal years beginning after June 30, 1970."

Section 102(a) of Pub. L. 91–296 provided, in part, that the amendment by section 102(a) of Pub. L. 91–296 [striking out reference to modernization grants in par. (b) and added par. (c) of this section] is effective with respect to appropriations made under this section for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

SHORT TITLE OF 1970 AMENDMENT

Section 1(a) of Pub. L. 91–296 provided that: "This Act [enacting sections 229b, 291j–1 to 291j–10, and 291o–1 of this title, sections 186, 186 note, and 187 of Title 21, Food and Drugs, and provisions set out as notes under this section and sections 201, 242b, 242g, 246, 291a, 291b, 291c, 291d, 291e, 291f, 291o, 295h–6, 299a, and 2688p of this title, amending this section and sections 242b, 242g, 246, 291 note, 291b, 291c, 291d, 291e, 291f, 291i, 291k to 291m–1, 291o, and 299a of this title and section 1717 of Title 12, Bank and Banking, and repealing sections 295h–6 and 2688p of this title] may be cited as the 'Medical Facilities Construction and Modernization Amendments of 1970'."

SHORT TITLE OF 1968 AMENDMENT

Section 401 of Pub. L. 90–574 provided that: "This title [amending this section and section 291b of this title] may be cited as the 'Hospital and Medical Facilities Construction and Modernization Assistance Amendments of 1968'."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 291d, 291p, and 291s, prior to the general amendment of this subchapter by Pub. L. 88–443.

Former section 291d was derived from acts July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 897; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(a), 72 Stat. 616.

Former section 291p was derived from act July 1, 1944, ch. 373, title VI, § 646, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461.

Former section 291s was derived from acts July 1, 1944, ch. 373, title VI, § 651, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462, and amended Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(b), 72 Stat. 616; Oct. 5, 1961, Pub. L. 87–395, § 3(a), 75 Stat. 825.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291b, 291d, 291g, 291o of this title.

§ 291b. State allotments.

(a) Computation for individual States; formulas for both new construction and modernization.

(1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 291a(a) of this title, and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 291a(b) of this title, as the product of—

"(A) the population of such State, and

"(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all of the States.

(2) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated for such year under section 291a(c) of this title, on the basis of the population, the financial need, and the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 291a of this title, of the respective States.

(b) Minimum allotments.

(1) The allotment to any State under subsection (a) of this section for any fiscal year which is less than—

(A) $50,000 for the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam and $100,000 for any other State, in the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities,

(B) $100,000 for the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam and $200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit outpatient facilities,

(C) $200,000 for the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 291a of this title, or

(D) $200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacfic Islands, or Guam and $300,000 for any other State in the case of an allotment for grants for the modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

(2) An allotment of the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

(c) Allotment percentages; definition; determination.

For the purposes of this part—

(1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, The Trust Territory of the Pacific Islands and the Virgin Islands shall be 75 per centum.

(2) The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

(3) The population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce.

(4) The term "United States" means (but only for the purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

(d) Availability of allotments in subsequent years.

(1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums alloted to such State for such purposes for such next two fiscal years.

(2) Any sum allotted to the Virgin Islands, American Samoa, The Trust Territory of the Pacific Islands or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(e) Transfer of allotments.

(1) Upon the request of any State that a specified portion of any allotment of such State under subsection (a) of this section for any fiscal year be added to any other allotment or allotments of such State under such subsection for such year, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that the aggregate of the portions so transferred from an allotment for a fiscal year pursuant to this paragraph may not exceed the amount specified with respect such allotment in clause (A), (B), (C), or (D), as the case may be, of subsection (b)(1) of this section which is applicable to such State.

(2) In addition to the transfer of portions of allotments under paragraph (1), upon the request of any State that a specified portion of any allotment of such State under subsection (a) of this section, other than an allotment for grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification to the Secretary by the State agency in such State to the effect that—

(A) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion, or

(B) in the case of a request to transfer a portion of an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, use of such portion as requested by such State agency will better carry out the purposes of this title,

the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(3) In addition to the transfer of portions of allotments under paragraph (1) or (2), upon the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) of this section be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hopsitals and public health centers, and upon simultaneous certification by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 291a of this title, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(4) After adjustment of allotments of any State, as provided in paragraph (1), (2), or (3) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

(f) Request by State to transfer portion of allotment.

In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such

State's allotment, as requested by it, would assist in carrying out the purposes of this subchapter, such portion of such State's allotment shall be added to the corresponding allotment of the other State, to be used for the purpose referred to above. (July 1, 1944, ch. 373, title VI, § 602, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 448, and amended Oct. 15, 1968, Pub. L. 90–574, Title IV, § 402(a), 82 Stat. 1011; June 30, 1970, Pub. L. 91–296, title I, §§ 103 (a), (b), 104, 116(a), 119(a)–(c), 122, 84 Stat. 338, 341, 343, 344.)

CODIFICATION

A prior section 291b, act July 1, 1944, ch. 373, title VI, § 612, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to a State application for funds, its requirements and its approval.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–296, § 103(a), substituted "sums appropriated for such year" for "new hospital portion of the sums appropriated for such year" and struck out provision setting out a formula for determining the new hospital portion of the sums appropriated pursuant to section 291a(b) of this title.

Subsec. (a)(2). Pub. L. 91–296, § 103(a), substituted "Secretary" for "Surgeon General", and substituted reference to sums appropriated for such year under section 291a (c) of this title for reference to the remainder of the sums appropriated pursuant to section 291a(b) of this title (which portion was to be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title).

Subsec. (b)(1)(A). Pub. L. 91–296, §§ 103(b)(1), 119(a)(1), substituted "$50,000" and "$100,000" for "$25,000" and "$50,000", respectively, and inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b)(1)(B). Pub. L. 91–296, §§ 103(b)(2), 116(a), 119(a)(1), substituted "$100,000" and "$200,000" for "$50,000" and "$100,000", respectively, substituted "outpatient facilities" for "diagnostic or treatment centers", and inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b)(1)(C). Pub. L. 91–296, §§ 103(b)(3), 119(a)(1), substituted "$200,000" and "$300,000" for "$100,000" and "$200,000", respectively, and inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b)(1)(D). Pub. L. 91–296, § 103(b)(4), added subsec. (b)(1)(D).

Subsec. (b)(2). Pub. L. 91–296, § 119(a)(2), inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (c)(1). Pub. L. 91–296, § 119(b), inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (d)(1). Pub. L. 91–296, §§ 119(c), 122, inserted reference to the Trust Territory of the Pacific Islands and substituted two years for one year as the time span following a year in which allotted sums remaining unobligated at the end thereof during which such unobligated funds remain available.

Subsec. (d)(2). Pub. L. 91–296, § 119(c), inserted references to the Trust Territory of the Pacific Islands.

Subsec. (e). Pub. L. 91–296, § 104, authorized any state to make transfers of any amount up to the minimum amount allotted to any state for a particular category and authorized all amounts above such minimums to be transferred from one category of assistance to another without restriction on the amounts with the exception that no funds could be transferred from the rehabilitation facilities category or to the new hospital construction category and that all transfers be justified on the basis that either there are no approvable applications in the category from which funds are transferred or, in the case of transfers from the new hospital construction category, the purposes of the program would be better served by the transfer, and authorized transfers to new hospital construction from the modernization category if the need is greater.

1968—Subsec. (a)(1). Pub. L. 90–574, § 402(b)(1), added the provision for two-thirds of the sums appropriated in the case of the fifth fiscal year thereafter.

Subsec. (e)(2)(E). Pub. L. 90–574, § 402(b)(2), added subsec. (e)(2)(E).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 103(a) of Pub. L. 91–296 provided in part that the amendment by section 103(a) of Pub. L. 91–296 [amending subsec. (a) of this section] shall be effective with respect to appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 103(b) of Pub. L. 91–296 provided in part that the amendment by section 103(b) of Pub. L. 91–296 [increasing the allotments in subsec. (b)(1)(A)–(C) and adding subsec. (b)(1)(D) of this section] shall be effective with respect to allotments from appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Section 119(e) of Pub. L. 91–296 provided that: "The amendments made by this section [amending subsecs. (b)(1)(A)–(C), (2), (c)(1), and (d) of this section and section 291o(a) of this title] shall apply with respect to allotments (and grants therefrom) under part A of title VI of the Public Health Service Act [this part] for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of such title [part B of this subchapter] made after June 30, 1970."

Section 122 of Pub. L. 91–296 provided in part that amendment by section 122 of Pub. L. 91–296 [amending subsec. (d)(1) of this section] shall be effective with respect to allotments made from appropriations under section 291a of this title for fiscal years beginning after June 30, 1970.

Section 104 of Pub. L. 91–296 provided in part that the amendment by section 104 of Pub. L. 91–296 [amending subsec. (e) of this section] shall be effective with respect to allotments made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in the following prior sections:

Present provisions	*Former provisions*
291b (a), (b), (d)	291c, 291g, 291r, 291t.
291b (c)	291i (a)—(d).
291b (e)	291n–1.
291b (f)	291v(b).

Former section 291c was derived from act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1941.

Former section 291g was derived from acts July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587.

Former section 291i (a)—(d) was derived from acts July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, 62 Stat. 531; Aug. 1, 1956, ch. 852, § 19(a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 86–70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 29(d), 74 Stat. 419; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(2), 76 Stat. 587.

Former section 291n–1 was derived from act July 1, 1944, ch. 373, title VI, § 637, formerly § 654(c), as added July 12, 1954, ch. 471, § 3, 68 Stat. 463, renumbered and amended Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 349.

Former section 291r was derived from act July 1, 1944, ch. 373, title VI, § 648, as added July 12, 1954, ch. 471, § 2, 68 Stat. 462.

Former section 291t was derived from acts July 1, 1944, ch. 373, title VI, § 652, as added July 12, 1954, ch. 471, § 3, 68 Stat. 462, and amended Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87–395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587.

Former section 291v(b) was derived from act July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463.

ALLOTMENT STUDY; REPORT TO CONGRESS ON MAY 15, 1972

Section 103(c) of Pub. L. 91–296 provided that: "The Secretary of Health, Education, and Welfare shall conduct

a study of the effects of the formula specified in section 602(a)(1) of the Public Health Service Act [subsec. (a)(1) of this section] for allotment among the States of sums appropriated for construction of health facilities, and shall report to the Congress on May 15, 1972, the result of such study, together with recommendations for such changes, if any, in such formula as he may determine to be desirable, together with his justification for any changes so recommended."

APPROVAL OF APPLICATION FOR MODERNIZATION PRIOR TO JULY 1, 1965, OR BEFORE APPROVAL OF A STATE PLAN

Section 3(b)(5) of Pub. L. 88–443 providing that no application for modernization of any facility may be approved for purposes of receiving funds before the approval of a State plan, as well as other requirements, is set out as a note under section 291 of this title.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291o of this title and title 12 section 1715w.

§ 291c. General regulations.

The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe—

Priority of projects; determination

(a) the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1) in the case of projects for the construction of hospitals, to facilities serving areas with relatively small financial resources and, at the option of the State, rural communities;

(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas;

(4) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(6) to facilities which will provide training in health or allied health professions; and

(7) to facilities which will provide to a significant extent, for the treatment of alcoholism;

Standards of construction and equipment

(b) general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

Criteria for determining needs for beds, hospitals and other facilities; plans for distribution of beds and facilities

(c) criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

Criteria for determining need for modernization

(d) criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

State plan requirements; assurances necessary for approval of application

(e) that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

(July 1, 1944, ch. 373, title VI, § 603, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 451, and amended Sept. 4, 1964, Pub. L. 88–581, § 3(b), 78 Stat. 919; June 30, 1970, Pub. L. 91–296, title I, § 110, 84 Stat. 339.)

CODIFICATION

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 613, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to allotments to States, the determination of their amount, and the disposition of unexpended funds. See section 291(a), (b) and (d).

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–296 struck out from cl. (1) provisions requiring that states give special consideration for projects for hospitals serving rural areas but added provisions making such preference optional with each state and added cls. (4)–(7).

1964—Subsec. (a)(4). Pub. L. 88–581 deleted cl. (4) relating to hospital facilities which "will include new or expanded facilities for nurse training."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 110 of Pub. L. 91–296 provide in part that the amendment by section 110 of Pub. L. 91–296 [amending subsec. (a) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(b) of Pub. L. 88–581 provided that the amendments to this section, and sections 291o and 293c(b)-(d) of this title, shall be effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 291e, acts July 1, 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, §2, 60 Stat. 1041, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88–443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291d, 291e, 291j–3 of this title.

§ 291d. State plans.

(a) Submission; requirements.

Any State desiring to participate in this part may submit a State plan. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) of this subsection will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include (A) representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and representatives particularly concerned with education or training of health professions personnel, and (B) an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 291c of this title and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C) the outpatient facilities needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such facilities throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State: and

(E) effective January 1, 1966, the extent to which existing facilities referred to in section 291a (a) or (b) of this title in the State are in need of modernization;

(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) of this subsection and regulations prescribed under section 291c of this title and providing for construction or modernization of the hospital or long-term care facilities, public health centers, outpatient facilities, and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4) of this subsection;

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 291c of this title, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10) of this subsection;

(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary; and

(13) Effective July 1, 1971, provide that before any project for construction or modernization of any general hospital is approved by the State agency there will be reasonable assurance of adequate provision for extended care services (as determined in accordance with regulations) to patients of such hospital when such services are medically appropriate for them, with such services being provided in facilities which (A) are structurally part of, physically connected with, or in immediate proximity to, such hospital, and (B) either (i) are under the supervision of the professional staff of such hospital or (ii) have organized medical staffs and have in effect transfer agreements with such hospital; except that the Secretary may, at the request of the State agency, waive compliance with clause (A) or (B), or both such clauses, as the case may be, in the case of any project if the State agency has determined that compliance with such clause or clauses in such case would be inadvisable.

(b) Approval by Surgeon General; hearing after disapproval.

The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a) of this section, the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification. (July 1, 1944, ch. 373, title VI, § 604, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 452, and amended June 30, 1970, Pub. L. 91–296, title I, §§ 115, 116(b), (c), 123, 84 Stat. 341, 342, 344.)

CODIFICATION

A prior section 291d, act July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 2(a), 63 Stat. 898; July 27, 1953, ch. 243, 67 Stat. 196; Aug. 2, 1956, ch. 871, title IV, § 401, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85–664, § 1(a), 72 Stat. 616, authorized appropriations for construction of hospitals and related facilities. See section 291a of this title.

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91–296, § 115, inserted requirement that state advisory councils include representatives particularly concerned with education or training of health professions personnel.

Subsec. (a)(4)(C). Pub. L. 91–296, § 116(b), substituted "outpatient facilities" for "diagnostic or treatment centers" and "such facilities" for "such centers".

Subsec. (a)(5). Pub. L. 91–296, § 116(c), substituted "outpatient facilities" for "diagnostic or treatment centers".

Subsec. (a)(13). Pub. L. 91–296, § 123, added subsec. (a)(13).

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(8) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(C) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 115 of Pub. L. 91–296 provided in part that the amendment by section 115 of Pub. L. 91–296 [amending subsec. (a)(3) of this title] shall be effective July 1, 1970.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 291f (a), (b), act July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, prior to the general amendment of this subchapter by Pub. L. 88–443.

FUNDS FOR MODERNIZATION PROJECTS; CONDITIONS TO BE MET BEFORE APPROVAL

Section 3(b)(5) of Pub. L. 88–443, provided that no application with respect to a modernization project may be approved for purposes of receiving funds from an allotment under section 291(a)(2) of this title before July 1, 1965, or before a State plan has been approved, as well as certain other requirements. See effective date note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291e, 291g, 291i, 291j–3, 291j–9, 291*l*, 291*o* of this title and title 12 section 1715w, 1715z–7.

§ 291e. Projects for construction or modernization.

(a) Application; contents.

For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with regulations prescribed under section 291c of this title;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40;

(6) a certification by the State agency of the Federal share for the project.

(b) Approval by Surgeon General; requisites; additional approval by Secretary of Health, Education, and Welfare.

The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 291c of this title; (3) that the application is in conformity with the State plan approved under section 291d of this title and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 291c(e) of this title, and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency, opportunity has been provided, prior to such approval and recommendation, for consideration of the project by the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 246(b) of this title covering the area in which such project is to be located or, if there is no such agency or organization, by the State agency administering or supervising the administration of the State plan approved under section 246(a) of this title, and the application is for a project which is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 291c(a) of this title. Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health, Education, and Welfare.

(c) Opportunity for hearing required prior to disapproval.

No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

(d) Amendments subject to same approval as original applications.

Amendment of any approved application shall be subject to approval in the same manner as an original application.

(e) Outpatient facilities; requirements of applicants.

Notwithstanding any other provision of this subchapter, no application for an outpatient facility shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 291o of this title) or which provides reasonable assurance that the services of a general hospital will be available to patients of such facility who are in need of hospital care. (July 1, 1944, ch. 373, title VI, § 605, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 453, and amended June 30, 1970, Pub. L. 91–296, title I, §§ 111(a), 116(e), 84 Stat. 340, 342.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (a) of this section, is classified to sections 276a to 276a–5 of Title 40, Public Building, Property and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a) of this section, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

A prior section 291e, act July 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, authorized the Surgeon General to prescribe general regulations. See section 291c of this title.

AMENDMENTS

1970—Subsec. (b)(4). Pub. L. 91–296, § 111(a), added provisions requiring that the appropriate area wide health planning agency be given an opportunity to consider the project for which an application is made before approval is given.

Subsec. (e). Pub. L. 91–296, § 116(e), substituted "an outpatient facility" for "a diagnostic or treatment center" and added provisions extending coverage to include corporations and associations which, although not owning or operating hospitals offer services of a general hospital to patients in need of hospital care.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 111(a) of Pub. L. 91–296 provided in part that the amendment by section 111(a) of Pub. L. 91–296 [amending subsec. (b)(4) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

Amendment by section 116(e) of Pub. L. 91–296 applicable with respect to applications approved under this subchapter after June 30, 1970, see section 116(g) of Pub. L. 91–296, set out as a note under section 291o of this title.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a)—(d) of this section, and subsec. (e) of this section, were contained in former sections 291h (a), (c) and 291v(d), respectively, prior to the general amendment of this subchapter by Pub. L. 88–443.

Former section 291h (a), (c) was derived from acts July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 8, 63 Stat. 901.

Former section 291v(d) was derived from acts July 1, 1944, ch. 373, title VI, § 654, as added July 12, 1954, ch. 471, § 3, 68 Stat. 463.

APPLICATIONS APPROVED PRIOR TO AUG. 18, 1964

Section 3(b)(1) of Pub. L. 88–443 providing that applications approved, and allotments appropriated prior to Aug. 18, 1964, shall be governed by this subchapter as in effect prior to such date, is set out as a note under section 291 of this title.

FUNDS FOR MODERNIZATION PROJECTS; CONDITIONS TO BE MET BEFORE APPROVAL

Section 3(b)(5) of Pub. L. 88–443 provided that no application with respect to a modernization project may be approved for purposes of receiving funds from an allotment under section 291(a)(2) of this title before July 1, 1965, or before a State plan has been approved, as well as certain other requirements. See effective date note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

CROSS REFERENCES

Additional payments in cases of amended applications, see section 291f(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 242b, 291f, 291g, 291h, 291i, 291j–3, 295h of this title.

§ 291f. Payments for construction or modernization.

(a) Certification of work by Surgeon General; conditions affecting payments.

Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 291g of this title, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) Additional payments in cases of amended applications.

In case an amendment to an approved application is approved as provided in section 291e of this title or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) Administration expenses; use of portion of allotments to defray; manner of payment.

(1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 4 per centum of the total of the allotments of such State for a year, or $100,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

(2) Any amount paid under paragraph (1) of this subsection to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1970. (July 1, 1944, ch. 373, title VI, § 606, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 454, and amended June 30, 1970, Pub. L. 91–296, title I, § 112, 84 Stat. 340.)

CODIFICATION

A prior section 291f, act July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 554, 62 Stat. 536; Oct. 25, 1949, ch. 722, § 3(a), 63 Stat. 899, related to State plans, their submission and their requirements. See section 291d of this title.

AMENDMENTS

1970—Subsec. (c)(1). Pub. L. 91–296, § 112(1), substituted "4 per centum" for "2 per centum" and "$100,000 for $50,000".

Subsec. (c)(2). Pub. L. 91–296, § 112(2), substituted "June 30, 1970" for "June 30, 1964".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 112 of Pub. L. 91–296 provided in part that the amendment by section 112 of Pub. L. 91–296 [amending this section] shall be effective with respect to expenditures under a state plan approved under this subchapter which are made for administration of such plan during any fiscal year beginning after June 30, 1970.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in former section 291h(b), acts July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 3(b), 63 Stat. 899, prior to the general amendment of this subchapter by Pub. L. 88–443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291i of this title.

§ 291g. Withholding of payments; noncompliance with requirements.

Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 291d(a)(1) of this title, finds—

(a) that the State agency is not complying substantially with the provisions required by section 291d of this title to be included in its State plan; or

(b) that any assurance required to be given in an application filed under section 291e of this title is not being or cannot be carried out; or

(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 291e of this title; or

(d) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Surgeon General may forthwith notify the State agency that—

(e) no further payments will be made to the State under this part, or

(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 291a of this title, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section,

as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled. (July 1, 1944, ch. 373, title VI, § 607, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 455.)

CODIFICATION

A prior section 291g, act July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 25, 1949, ch. 722, §§ 3(b), 7, 63 Stat. 899, 901; Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(3), 76 Stat. 587, authorized allotments to States for construction, specified their amount, and provided for availability for unexpended funds. See section 291b of this title.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 291j(a), acts July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466, prior to the general amendment of this subchapter by Pub. L. 88–443.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291f, 291h of this title.

§ 291h. Judicial review.

(a) Refusal to approve application; procedure; jurisdiction of court of appeals.

If the Surgeon General refuses to approve any application for a project submitted under section 291e of this title or section 291j of this title, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 291g of this title such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

(b) Conclusiveness of Surgeon General's findings; remand; new or modified findings.

The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Review by Supreme Court; stay of Surgeon General's action.

The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action. (July 1, 1944, ch. 373, title VI, § 608, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 456.)

CODIFICATION

A prior section 291h, act July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, §§ 3(b—d), 8, 63 Stat. 899, 901; July 12, 1954, ch. 471, § 4(b), 68 Stat. 464, related to projects for construction, the application required and its contents and approval by the Surgeon General, and provided for a hearing prior to disapproval of the application. See section 291e of this title.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 291j(b), acts July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 28, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466; Aug. 28, 1958, Pub. L. 85–791, § 27, 72 Stat. 950, prior to the general amendment of this subchapter by Pub. L. 88–443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293c of this title.

§ 291i. Recovery of expenditures under certain conditions; no lien prior to judgment.

If any facility with respect to which funds have been paid under section 291f of this title shall, at any time within twenty years after the completion of construction—

(a) be sold or transferred to any person, agency, or organization (1) which is not qualified to file an application under section 291e of this title, or (2) which is not approved as a transferee by the State agency designated pursuant to section 291d of this title, or its successor, or

(b) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment. (July 1, 1944, ch. 373, title VI. § 609, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a). 78 Stat. 456; and amended June 30, 1970, Pub. L. 91–296, title I § 116(b), (d), 84 Stat. 342.)

CODIFICATION

A prior section 291i, acts July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, 62 Stat. 531; Oct. 25. 1949, ch. 722, § 9, 63 Stat. 901; July 12, 1954, ch. 471, § 4 (c)—(f), 68 Stat. 465, 466; Aug. 1, 1956, ch. 852, § 19 (a), (b), 70 Stat. 911; June 25, 1959, Pub. L. 83–70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 29(d), 74 Stat. 419; Oct. 5, 1961, Pub. L. 87–395, § 5, 75 Stat. 826; Sept. 25, 1962, Pub. L. 87–688, § 4(a)(2), 76 Stat. 587, related to allotment percentages, and contained various definitions. See section 291b(c) of this title.

AMENDMENTS

1970—Cl. (b). Pub. L. 91–296 substituted "outpatient facility" for "diagnostic or treatment center".

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 291h(e), acts July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 3(c), 63 Stat. 899, 901; July 12, 1954, ch. 471, § 4(b), 68 Stat. 464, prior to the general amendment of this subchapter by Pub. L. 88–443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291j, 293a, 293d of this title.

§ 291j. Loans.

(a) Authorization; conditions.

In order further to assist the States in carrying out the purposes of this subchapter, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

(b) Approval; payments to applicants.

Except as provided in this section, an application for a loan with respect to any project under this part shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

(c) Terms.

(1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be agreed upon by the applicant and the Surgeon General.

(2) The Surgeon General may enter into agreements modifying any of the terms and conditions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 291i of this title occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

(d) Funds; miscellaneous receipts.

Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts. (July 1, 1944, ch. 373, title VI, § 610, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 457.)

CODIFICATION

A prior section 291j, act July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900; July 12, 1954, ch. 471, § 4(g), 68 Stat. 466; Aug. 28, 1958, Pub. L. 85-791, § 27, 72 Stat. 950, related to withholding of certification for noncompliance with requirements, appeal, conclusiveness of findings, the jurisdiction of the courts of appeals and to review by the Supreme Court. See sections 291g and 291h of this title.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88-443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 291w—291z, prior to the general amendment of this subchapter by Pub. L. 88-443.

Former sections 291w—291z were derived from act July 1, 1944, ch. 373, title VI, §§ 661-664, as added Aug. 1, 1958, Pub. L. 85-589, 72 Stat. 489, 490. Former section 291w was amended by act Oct. 5, 1961, Pub. L. 87-395, § 6, 75 Stat. 826.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291h of this title.

PART B.—LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITALS AND OTHER MEDICAL FACILITIES

§ 291j-1. Loan guarantees and loans.

(a) Authority of Secretary.

(1) In order to assist nonprofit private agencies to carry out needed projects for the modernization or construction of nonprofit private hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1973, may, in accordance with the provisions of this part, guarantee to non-Federal lenders making loans to such agencies for such projects, payment of principal of and interest on loans, made by such lenders, which are approved under this part.

(2) In order to assist public agencies to carry out needed projects for the modernization or construction of public health centers, and public hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1973, may, in accordance with the provisions of this part, make loans to such agencies which shall be sold and guaranteed in accordance with section 291j-7 of this title.

(b) Cost limitations.

(1) No loan guarantee under this part with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant or loan under part A of this subchapter with respect to such project, exceeds 90 per centum of the cost of such project.

(2) No loan to a public agency under this part shall be made in an amount which, when added to the amount of any grant or loan under part A of this subchapter with respect to such project, exceeds 90 per centum of the cost of such project.

(c) Administrative assistance.

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof. (July 1, 1944, ch. 377, title VI, § 621, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-2 of this title.

§ 291j-2. Allocation among States.

(a) Allotment regulations.

For each fiscal year, the total amount of principal of loans to nonprofit private agencies which may be guaranteed or loans to public agencies which may be directly made under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of each State's relative population, financial need, need for construction of the facilities referred to in section 291j-1(a) of this title, and need for modernization of such facilities.

(b) Reallotment.

Any amount allotted under subsection (a) of this section to a State for a fiscal year ending before July 1, 1973, and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for each of such next two fiscal years; except that, with the consent of any such State, any such amount remaining unobligated at the end of the first of such next fiscal year may be reallotted (on such basis as the Secretary deems equitable and consistent with the purposes of this title) to other States which have need therefor. Any amounts so reallotted to a State shall be available for the purposes for which made until the close of the second such next two fiscal years and shall be in addition to the amount allotted and available to such State for the same period.

(c) Time of availability of amounts for subsequent allotment.

Any amount allotted or reallotted to a State under this section for a fiscal year shall not, until the expiration of the period during which it is available for obligation, be considered as available for allotment for a subsequent fiscal year.

(d) Modernization or construction commenced on or after January 1, 1968.

The allotments of any State under subsection (a) of this section for the fiscal year ending June 30,

1971, and the succeeding fiscal year shall also be available to guarantee loans with respect to any project, for modernization or construction of a nonprofit private hospital or other health facility referred to in section 291j-1(a)(1) of this title if the modernization or construction of such facility was not commenced earlier than January 1, 1968, and if the State certifies and the Secretary finds that without such guaranteed loan such facility could not be completed and begin to operate or could not continue to operate, but with such guaranteed loan would be able to do so: *Provided,* That this subsection shall not apply to more than two projects in any one State. (July 1, 1944, ch. 373, title VI, § 622, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 345.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-3 of this title.

§ 291j-3. Applications and conditions.

(a) Contents of applications.

For each project for which a guarantee of a loan to a nonprofit private agency or a direct loan to a public agency is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 291d of this title, an application by such private nonprofit agency or by such public agency. If two or more private nonprofit agencies, or two or more public agencies, join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by the third sentence of section 291e(a) of this title (other than clause (6) thereof) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan for which a guarantee is sought under this part, or the amount of the direct loan sought under this part, as the case may be.

(b) Conditions for approval.

The Secretary may approve such application only if—

(1) there remains sufficient balance in the allotment determined for such State pursuant to section 291j-2 of this title to cover the amount of the loan for which a guarantee is sought, or the amount of the direct loan sought (as the case may be), in such application,

(2) he makes each of the findings which are required by clauses (1) through (4) of section 291e(b) of this title for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 291c(a) of this title; such finding shall be made without regard to the provisions of clauses (1) and (3) of such section),

(3) he finds that there is compliance with section 291e(e) of this title,

(4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

(5) he also determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) Hearing.

No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of approved applications.

Amendment of an approved application shall be subject to approval in the same manner as an original application.

(e) Recovery rights; terms and conditions.

(1) In the case of any loan to a nonprofit private agency, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any guarantee of such loan under this part, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans to nonprofit private agencies under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved, and, to the extent permitted by subsection (f) of this section, any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(f) Incontestable guarantee.

Any guarantee of a loan to a nonprofit private agency made by the Secretary pursuant to this part shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person. (July 1, 1944, ch. 373, title VI, § 623, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 346.)

§ 291j-4. Payment of interest on guaranteed loans.

(a) Subject to the provisions of subsection (b) of this section, in the case of a guarantee of any loan to a nonprofit private agency under this part with respect to a hospital or other medical facility, the Secretary shall pay, to the holder of such loan and for and on behalf of such hospital or other medical facility amounts sufficient to reduce by 3 per centum

per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan, to a nonprofit private agency, which is guaranteed under this part shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(b) Contracts to make the payments provided for in this section shall not carry an aggregate amount greater than such amount as may be provided in appropriations Acts. (July 1, 1944, ch. 373, title VI, § 624, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 347.)

§ 291j-5. Limitation on amounts of loans guaranteed or directly made.

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this part may not exceed the lesser of—

(1) such limitations as may be specified in appropriations Acts, or

(2) in the case of loans covered by allotments for the fiscal year ending June 30, 1971, $500,000,000; for the fiscal year ending June 30, 1972, $1,000,000,000; and for the fiscal year ending June 30, 1973, $1,500,000,000.

(July 1, 1944, ch. 373, title VI, § 625, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 347.)

§ 291j-6. Loan guarantee and loan fund.

(a) (1) There is hereby established in the Treasury a loan guarantee and loan fund (hereinafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, (i) to enable him to discharge his responsibilities under guarantees issued by him under this part, (ii) for payment of interest on the loans to nonprofit agencies which are guaranteed, (iii) for direct loans to public agencies which are sold and guaranteed, (iv) for payment of interest with respect to such loans, and (v) for repurchase by him of direct loans to public agencies which have been sold and guaranteed. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital required for the fund. To the extent authorized from time to time in appropriation Acts, there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets.

(2) Of the moneys in the fund, there shall be available to the Secretary for the purpose of making of direct loans to public agencies only such sums as shall have been appropriated for such purpose pursuant to section 291j-7 of this title or sums received by the Secretary from the sale of such loans (in accordance with such section) and authorized in appropriations Acts to be used for such purpose.

(b) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this part—

(i) to make payments of interest on loans to nonprofit private agencies which he has guaranteed under this part;

(ii) to otherwise comply with guarantees under this part of loans to nonprofit private agencies;

(iii) to make payments of interest subsidies with respect to loans to public agencies which he has made, sold, and guaranteed under this part;

(iv) in the event of default by public agencies to make payments of principal and interest on loans which the Secretary has made, sold, and guaranteed, under this part, to make such payments to the purchaser of such loan;

(v) to repurchase loans to public agencies which have been sold and guaranteed under this part.

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund. (July 1, 1944, ch. 373, title VI, § 626, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 347.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which is classified to section 745 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-7 of this title.

§ 291j-7. Loans to public facilities.

(a) Interest rates; security; equitable geographical distribution.

(1) Any loan made by the Secretary to a public agency under this part for the modernization or construction of a public hospital or other health facility shall require such public agency to pay interest thereon at a rate comparable to the current

rate of interest prevailing with respect to loans, to nonprofit private agencies, which are guaranteed under this part, for the modernization or construction of similar facilities in the same or similar areas, minus 3 per centum per annum.

(2) (A) No loan to a public agency shall be made under this part unless—

(i) the Secretary is reasonably satisfied that such agency will be able to make payments of principal and interest thereon when due, and

(ii) such agency provides the Secretary with reasonable assurances that there will be available to such agency such additional funds as may be necessary to complete the project with respect to which such loan is requested.

(B) Any loan to a public agency shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provision for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) In making loans to public agencies under this part, the Secretary shall give due regard to achieving an equitable geographical distribution of such loans.

(b) Sale.

(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans referred to in subsection (a) (1) either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of Title 12.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loan as of the time of sale.

(c) Agreements.

(1) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(A) to guarantee to such purchaser (and any successor in interest to such purchaser) payment of the principal and interest payable under such loan, and

(B) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary, after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(2) Any such agreement—

(A) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the public agency to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such agency under such loan;

(B) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(C) shall provide that, in the event of any default by the public agency to which such loan was made in payment of principal and interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(D) shall provide that, in the event such loan is closed out as provided in subparagraph (C), or in the event of any other loss incurred by the Secretary by reason of the failure of such public agency to make payments of principal and interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such public agency.

(d) Right of recovery; waiver.

The Secretary may, for good cause, waive any right of recovery which he has against a public agency by reason of the failure of such agency to make payments of principal and interest on a loan made to such agency under this part.

(e) Interest and interest subsidies as gross income under Internal Revenue Code of 1954.

After any loan to a public agency under this part has been sold and guaranteed, interest paid on such loan and any interest subsidy paid by the Secretary with respect to such loan which is received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of Title 26, Internal Revenue Code of 1954.

(f) Sales proceeds; deposit and use.

Amounts received by the Secretary as proceeds from the sale of loans under this section shall be deposited in the loan fund established by section 291j-6 of this title, and shall be available to the Secretary for the making of further loans under this part in accordance with the provisions of subsection (a) (2) of such section.

(g) Authorization of appropriations.

There is authorized to be appropriated to the Secretary, for deposit in the loan fund established by section 291j-7 of this title, $30,000,000 to provide initial capital for the making of direct loans by the Secretary to public agencies for the modernization or construction of facilities referred to in subsection (a) (1) of this section. (July 1, 1944, ch. 373, title VI, § 627, as added June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 349.)

COMMITMENTS FOR DIRECT LOANS TO PUBLIC AGENCIES

Pub. L. 91-667, title II, § 200, Jan. 11, 1971, 84 Stat. 2007, provided: That the Secretary is authorized to issue commitments for direct loans to public agencies in accordance with section 627 of the Public Health Service Act [this section] which shall constitute contractual obligations of the United States, the total of such outstanding commitments not to exceed $30,000,000 at any given time; to sell obligations received pursuant to such commitments as provided in section 627 [this section], and the proceeds of any such sale shall be used to make a direct loan pursuant to the outstanding commitment under which the obligations were received."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291j-1, 291j-6 of this title.

PART C.—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS

§ 291j-8. Authorization of appropriations.

In order to assist in the provision of adequate emergency room service in various communities of the Nation for treatment of accident victims and handling of other medical emergencies through special project grants for the construction or modernization of emergency rooms of general hospitals, there are authorized to be appropriated $20,000,000 each for the fiscal year ending June 30, 1971, and the next two fiscal years. (July 1, 1944, ch. 373, title VI, § 631, as added June 30, 1970, Pub. L. 91-296, title III, § 301, 84 Stat. 351.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 291j-9 of this title.

§ 291j-9. Eligibility for grants.

Funds appropriated pursuant to section 291j-8 of this title shall be available for grants by the Secretary for not to exceed 50 per centum of the cost of construction or modernization of emergency rooms of public or nonprofit general hospitals, including provision or replacement of medical transportation facilities. Such grants shall be made by the Secretary only after consultation with the State agency designated in accordance with section 291d(a)(1) of this title. In order to be eligible for a grant under this part, the project, and the applicant therefor, must meet such criteria as may be prescribed by regulations. Such regulations shall be so designed as to provide aid only with respect to projects for which adequate assistance is not readily available from other Federal, State, local, or other sources, and to assist in providing modern, efficient, and effective emergency room service needed to care for victims of highway, industrial, agricultural, or other accidents and to handle other medical emergencies, and to assist in providing such service in geographical areas which have special need therefor. (July 1, 1944, ch. 373, title VI, § 632, as added June 30, 1970, Pub. L. 91-296, title III, § 301, 84 Stat. 351.)

§ 291j-10. Payments.

Grants under this part shall be paid in advance or by way of reimbursement, in such installments and on such conditions, as in the judgment of the Secretary will best carry out the purposes of this part. (July 1, 1944, ch. 373, title VI, 633, as added June 30, 1970, Pub. L. 91-296, title III, § 301, 84 Stat. 351.)

PART D.—GENERAL PROVISIONS

§ 291k. Federal Hospital Council.

(a) Membership; qualifications.

In administering this subchapter, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health, Education, and Welfare. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to represent the consumers of the services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

(b) Term of membership.

Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after August 18, 1964) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(c) Meetings; annual or by call of Surgeon General.

The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(d) Advisory or technical committees.

The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions. (July 1, 1944, ch. 373, title VI, § 641, formerly § 621, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 458, renumbered June 30, 1970, Pub. L. 91-296, title II, § 201, 84 Stat. 344, and amended Oct. 30, 1970, Pub. L. 91-515, title VI, § 601(b)(2), 84 Stat. 1311.)

CODIFICATION

Provisions similar to those comprising this section were contained in subsec. (b) of a prior section 291k, act July 1, 1944, ch. 373, title VI, § 633, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 24, 1948, ch. 621, § 6(b), 62 Stat. 602; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88-443.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91-515 struck out subsec. (e) which related to the payment of compensation and travel expenses of appointed Council members and members of advisory or technical committees while serving on Council business.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88-443, set out as a note under section 291 of this title.

TERMS OF FEDERAL HOSPITAL COUNCIL MEMBERS

Section 3(b)(3) of Pub. L. 88-443 providing that the terms of members serving on the Council prior to Aug. 18, 1964, shall expire on the date they would have expired had Pub. L. 88-443 not been enacted, is set out as a note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2683 of this title.

§ 291*l*. Conference of State agencies.

Whenever in his opinion the purposes of this subchapter would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 291d of this title, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request. (July 1, 1944, ch. 373, title VI, § 642, formerly § 622, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 458, and renumbered June 30, 1970, Pub. L. 91–296, title II, § 201, 84 Stat. 344.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 291*l*, act July 1, 1944, ch. 373, title VI, § 634, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, prior to the general amendment of this subchapter by Pub. L. 88–443.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 291m. State control of operations.

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter. (July 1, 1944, ch. 373, title VI, § 643, formerly 623, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 458, and renumbered June 30, 1970, Pub. L. 91–296, title II, § 201, 84 Stat. 344.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 291m, act July 1, 1944, ch. 373, title VI, § 635, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended July 12, 1954, ch. 471, § 4(h), 68 Stat. 467, prior to the general amendment of this subchapter by Pub. L. 88–443.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88–443, set out as a note under section 291 of this title.

§ 291m–1. Loans for certain hospital experimentation projects.

(a) Other public or private sources unavailable for alleviation of hardship due to increased construction costs.

In order to alleviate hardship on any recipient of a grant under section 291n of this title (as in effect immediately before the enactment of the Hospital and Medical Facilities Amendments of 1964) for a project for the construction of an experimental or demonstration facility having as its specific purpose the application of novel means for the reduction of hospital costs with respect to which there has been a substantial increase in the cost of such construction (over the estimated cost of such project on the basis of which such grant was made) through no fault of such recipient, the Secretary is authorized to make a loan to such recipient not exceeding 66⅔ per centum of such increased costs, as determined by the Secretary, if the Secretary determines that such recipient is unable to obtain such an amount for such purpose from other public or private sources.

(b) Application; form; information.

Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Interest; repayment period.

Each such loan shall bear interest at the rate of 2½ per centum per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) Authorization of appropriation.

There are hereby authorized to be appropriated $3,500,000 to carry out the provisions of this section. (July 1, 1944, ch. 373, title VI, § 643A, formerly § 623A, as added Dec. 5, 1967, Pub. L. 90–174, § 11, 81 Stat. 541, and renumbered June 30, 1970, Pub. L. 91–296, title II, § 201, 84 Stat. 344.)

REFERENCES IN TEXT

Section 291n of this title, referred to in subsec. (a), was repealed by Pub. L. 90–174, § 3(b)(1), Dec. 5, 1967, 81 Stat. 535.

Date of the enactment of the Hospital and Medical Facilities Amendments of 1964, referred to in subsec. (a), was Aug. 18, 1964, the date of the enactment of Pub. L. 88–443.

DEFINITION OF "SECRETARY"

Term "Secretary" used in this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

§ 291n. Repealed. Pub. L. 90–174, § 3(b)(1), Dec. 5, 1967, 81 Stat. 535.

Section, act July 1, 1944, ch. 373, title VI, § 644, formerly § 624, as added Aug. 18, 1964, Pub. L. 88–443, § 3(a), 78 Stat. 459, and renumbered June 30, 1970, Pub. L. 91–296, title II, § 201, 84 Stat. 344, provided for research, experiments and demonstrations in utilization of medical facilities, authorization, grants-in-aid, amounts, payment, conditions, authorization of appropriations, and right of recovery of United States Government, and is now covered by section 242b of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective with respect to appropriations for fiscal year ending after June 30, 1967, see section 3(b) of Pub. L. 90–174, set out as a note under section 246 of this title.

§ 291*o*. Definitions.

For the purposes of this subchapter—

(a) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(b)(1) The term "Federal share" with respect to any project means the proportion of the cost of such project to be paid by the Federal Government under this subchapter.

(2) With respect to any project in any State for which a grant is made from an allotment from an appropriation under section 291a of this title, the Federal share shall be the amount determined by the State agency designated in accordance with section 291d of this title, but not more than 66⅔ per centum or the State's allotment percentage, whichever is the lower, except that, if the State's allotment percentage is lower than 50 per centum, such allotment percentage shall be deemed to be 50 per centum for purposes of this paragraph.

(3) Prior to the approval of the first project in a State during any fiscal year the State agency designated in accordance with section 291d of this title shall give the Secretary written notification of the maximum Federal share established pursuant to paragraph (2) of this subsection for projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for projects in such State approved during such fiscal year shall not be changed after such approval.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Federal share shall, at the option of the State agency, be equal to the per centum provided under such paragraphs plus an incentive per centum (which when combined with the per centum provided under such paragraphs shall not exceed 90 per centum) specified by the State agency in the case of (A) projects that will provide services primarily for persons in an area determined by the Secretary to be a rural or urban poverty area, and (B) projects that offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of free-standing outpatient facilities.

(c) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(d) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(e) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term "outpatient facility" means a facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(3) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(g) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(1) medical evaluation and services, and

(2) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which—

(3) the major portion of the required evaluation and services is furnished within the facility; and

(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(h) The term "facility for long-term care" means a facility (including an extended care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(i) The term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportaton facilities) and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(j) The term "cost" as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 291b(a)(2), does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

(k) The term "modernization" includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of

existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(*l*) The term "title", when used with reference to a site for a project, means a free simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years' undisturbed use and possession for the purposes of construction and operation of the project. (July 1, 1944 ch. 373, title VI, § 645, formerly § 625, as added Aug. 18, 1964, Pub. L. 88-443, § 3(a), 78 Stat. 460, and amended Sept. 4, 1964, Pub. L. 88-581, § 3(b), 78 Stat. 919, renumbered and amended June 30, 1970, Pub. L. 91-296, title I, §§ 113, 114(a), 116(f), 117, 118, 119(d), title II, § 201, 84 Stat. 340, 341, 342, 343, 344.)

CODIFICATION

A prior section 291o, act July 1, 1944, ch. 373, title VI, § 641, as added July 12, 1954, ch. 471, § 2, 68 Stat. 461, related to a declaration of purpose with respect to diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities and nursing homes. See section 291 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-296, § 119(d), inserted reference to the Trust Territory of the Pacific Islands.

Subsec. (b). Pub. L. 91-296, § 113, provided that the federal share of any project be in such amount, not in excess of two-thirds, as the state agency determined and authorized a higher federal share of up to 90 per centum, in the case of rural or urban poverty projects, and facilities which might reduce health costs through shared services, interfacility cooperation, and free-standing ambulatory care centers.

Subsec. (c). Pub. L. 91-296, § 114(a), inserted references to extended care facilities, facilities related to programs for home health services, and self-care units operated in connection with hospitals and education or training facilities for health professions personnel operated as an integral part of a hospital.

Subsec. (f). Pub. L. 91-296, § 116(f), substituted "outpatient facility" for "diagnostic or treatment center", inserted "(located on or apart from a hospital)" after "means at facility", inserted "(including ambulatory inpatients)" after 'ambulatory patients", and added par. (3).

Subsec. (h). Pub. L. 91-296, § 117, inserted "(including an extended care facility)" following "means a facility".

Subsec. (i). Pub. L. 91-296, § 118, inserted reference to equipment of any buildings in cases in which such equipment will help to provide a service not previously provided in the community.

1964—Subsec. (c). Pub. L. 88-581 substituted "nurses' home facilities" for "nurses' home and training facilities."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 119(d) of Pub. L. 91-296 [amending subsec. (a) of this section] applicable with respect to allotments and grants therefrom under part A of this subchapter for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of this subchapter made after June 30, 1970, see section 119(e) of Pub. L. 91-296, set out as a note under section 291b of this title.

Section 113 of Pub. L. 91-296 provided in part that the amendment by section 113 of Pub. L. 91-296 [amending subsec. (b) of this section] shall be effective with respect to projects approved under this subchapter after June 30, 1970.

Section 114(a) of Pub. L. 91-296, provided in part that the amendment by section 114(a) of Pub. L. 91-296 [amending subsec. (c) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

Section 116(g) of Pub. L. 91-296 provided that: "The amendments made by subsection (e) [amending subsec. (f) of this section] and paragraphs (2) and (3) of subsection (f) of this section [amending section 291e(e) of this title] shall apply with respect to applications approved under title VI of such Act [this subchapter] after June 30, 1970."

Section 117 of Pub. L. 91-296 provided in part that the amendment by section 117 of Pub. L. 91-296 [amending subsec. (h) of this section] shall be effective with respect to applications approved under this subchapter after June 30, 1970.

Section 118 of Pub. L. 91-296 provided in part that the amendment by section 118 of Pub. L. 91-296 [amending subsec. (i) of this section] shall be effective with respect to projects approved under this subchapter after June 30, 1970.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of subsec. (c) of this section by Pub. L. 88-581 effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965, see effective date note under section 291c of this title.

EFFECTIVE DATE

Section effective Aug. 18, 1964, see section 3(b) of Pub. L. 88-443, set out as a note under section 291 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 291i (d)—(o), act July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, § 1(b), 62 Stat. 531; Oct. 25, 1949, ch. 722, § 9, 63 Stat. 901; July 12, 1954, ch. 471, § 4(c)—(f), 68 Stat. 465, 466; Aug. 1, 1956, ch. 852, § 19(b), 70 Stat. 911; June 25, 1959, Pub. L. 86-70, § 31(c), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 29(d), 74 Stat. 419; Oct. 5, 1961, Pub. L. 87-395, § 5, 75 Stat. 826; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(2), 76 Stat. 587, prior to the general amendment of this subchapter by Pub. L. 88-443.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 291e, 295h, 295h-4, 299b of this title; title 28 section 41a; title 29 section 41a.

§ 291o-1. Financial statements.

In the case of any facility for which a grant, loan, or loan guarantee has been made under this subchapter, the applicant for such grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility, and

(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed. (July 1, 1944, ch. 373, title VI, § 646, as added June 30, 1970, Pub. L. 91-296, title I, § 121, 84 Stat. 343.)

§§ 291p to 291z. Omitted.

CODIFICATION

Former sections 291p—291z of this title, were omitted in the general amendment of this subchapter by Pub. L. 88-443.

Sections 291p—291v, relating to diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities

and nursing homes, were derived from act July 1, 1944, ch. 373, title VI, §§ 646—648, 651—654, as added July 12, 1954, ch. 471, §§ 2, 3, 68 Stat. 461—463. See sections 291a, 291b and 291e of this title.

Section 291s was amended by acts Aug. 2, 1956, ch. 871, title IV, § 402, 70 Stat. 929; Aug. 14, 1958, Pub. L. 85-664, § (b), 72 Stat 616; Oct. 5, 1961, Pub. L. 87-395, § 3(a), 75 Stat. 825.

Section 291t was amended by acts Aug. 1, 1956, ch. 852, § 19(c), 70 Stat. 911; Oct. 5, 1961, Pub. L. 87-395, § 3(b), 75 Stat. 825; Sept. 25, 1962, Pub. L. 87-688, § 4(a)(3), 76 Stat. 587.

Section 291v was amended by act Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 349.

Sections 291w—291z, relating to Federal loans, this authorization, approval, payment, terms and their funding from allotments, were derived from act July 1, 1944, ch. 373, title VI, §§ 661—664, as added Aug. 1, 1958, Pub. L. 85-589, 72 Stat. 489, 490. See section 291j of this title.

Section 291w was amended by act Oct. 5, 1961, Pub. L. 87-395, § 6, 75 Stat. 826.

SUBCHAPTER V.—HEALTH RESEARCH AND TEACHING FACILITIES, TRAINING OF PROFESSIONAL HEALTH PERSONNEL AND MENTAL RETARDATION RESEARCH FACILITIES

PART A.—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES

AMENDMENTS

1963—Pub. L. 88-129, § 2(a), Sept. 24, 1963, 77 Stat. 164, substituted "Health Research and Teaching Facilities and Training of Professional Health Personnel" for "Health Research Facilities", in the subchapter heading, and added the heading of Part A.

§ 292. Declaration of policy.

(a) The Congress finds and declares that (1) the Nation's economy, welfare, and security are adversely affected by many crippling and killing diseases the prevention and control of which require a substantial increase, in all areas of the Nation, of research activities in the sciences related to health, and (2) funds for the construction of new and improved non-Federal facilities to house such activities are inadequate.

(b) It is therefore the purpose of this part to assist in the construction of facilities for the conduct of research in the sciences related to health by providing grants-in-aid on a matching basis to public and nonprofit institutions for such purpose.

(July 1, 1944, ch. 373, title VII, § 701, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164.)

AMENDMENTS

1963—Subsec. (b). Pub. L. 88-129 substituted "part" for "subchapter."

SHORT TITLE

Section 1 of act July 30, 1956, provided that: "This Act [this part] may be cited as the 'Health Research Facilities Act of 1956'."

§ 292a. Definitions.

As used in this part—

(1) the term "Council" means the National Advisory Council on Health Research Facilities established by section 292b of this title.

(2) the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered;

(3) the term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "sciences related to health" includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto.

(July 1, 1944, ch. 373, title VII, § 702, as added July 30, 1956, ch. 779, § 2, 70 Stat. 717, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88-129 substituted "part" for "subchapter" in the opening phrase.

§ 292b. National Advisory Council on Health Research Facilities.

(a) Establishment; composition; selection of members.

There is established in the Public Health Service a National Advisory Council on Health Research Facilities, consisting of the Surgeon General of the Public Health Service, who shall be Chairman, and an official of the National Science Foundation designated by the National Science Board, who shall be ex officio members, and twelve members appointed by the Secretary without regard to the civil-service laws. Four of the appointed members shall be selected from the general public and eight shall be selected from among leading medical, dental, or scientific authorities who are skilled in the sciences related to health. In selecting persons for appointment to the Council, consideration shall be given to such factors, among others, as (1) experience in the planning, constructing, financing, and administration of institutions engaged in the conduct of research in the sciences related to health, and (2) familiarity with the need for research facilities in all areas of the Nation.

(b) Functions.

The Council shall—

(1) advise and assist the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part; and

(2) consider all applications for grants under this part and make to the Surgeon General such recommendations as it deems advisable with respect to (A) the approval of such applications, and (B) the amount which should be granted to each applicant whose application, in its opinion, should be approved.

(c) Administration.

The Surgeon General is authorized to use the services of any member or members of the Council, and where appropriate, any member or members of the Federal Hospital Council, the National Advisory Health Council or the other national advisory councils or committees referred to in section 218 of this

title, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Surgeon General shall, in addition, make appropriate provision for consultation between and coordination of the work of the Council, the Federal Hospital Council, the National Advisory Health Council and such other national advisory councils or committees, with respect to matters bearing on the purposes and administration of this part. (July 1, 1944, ch. 373, title VII, § 703, as added July 1956, ch. 779, § 2, 70 Stat. 717, and amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164; Aug. 16, 1968, Pub. L. 90–490, title IV, § 403, 82 Stat. 789; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(a)(1), (b)(2), 84 Stat. 1310, 1311.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–515, § 601(a)(1), added "or committees" following "councils" wherever appearing therein.

Subsec. (d). Pub. L. 91–515, § 601(b)(2), struck out subsec. (d) which related to the payment of compensation and travel expenses of the appointed members of the Council.

1968—Subsec. (d). Pub. L. 90–490 increased limitation of compensation from $50 to $100.

1963—Pub. L. 88–129 substituted "part" for "subchapter" wherever appearing.

SHORT TITLE

Section 1 of Pub. L. 90–490 provided: "That this Act [which enacted sections 294f, 295g–1, 295h–6, 295h–7, 296f, 296g, and 297h of this title, amended sections 242d, 242g, 292b—292e, 293—293d, 294—294d, 295f to 295f–4, 295g, 295h to 295h–3, 296—296b, 296d, 296e, 297—297f, 298b, 298c, and 298c–1 of this title, omitted sections 298c–2 to 298c–6 of this title, and enacted provisions set out as notes under sections 292b, 292e, 293—293c, 294f, 295f, 295f–2, 295g, 296, 296d, 296f, and 297a of this title] may be cited as the 'Health Manpower Act of 1968'."

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

DEFINITION OF SECRETARY

Section 2 of Pub. L. 90–490 provided that: "As used in the amendments made by this Act [see Short Title note under this section], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292a of this title.

§ 292c. Appropriations; availability of funds.

There is authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the nine succeeding fiscal years, not to exceed $50,000,000, for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, an aggregate of not to exceed $280,000,000, $20,000,000 for the fiscal year ending June 30, 1970, and $30,000,000, for the next fiscal year, for making grants-in-aid for the construction of facilities for research, or research and related purposes, in the sciences related to health; and any sums appropriated pursuant to this section shall remain available until expended. (July 1, 1944, ch. 373, title VII, § 704, as added July 30, 1956, ch. 779, § 2, 70 Stat. 718, and amended Aug. 27, 1958, Pub. L. 85–777, § 1(a), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87–395, § 8(a), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87–838, § 4(a), 76 Stat. 1074; Aug. 9, 1965, Pub. L. 89–115, § 2(a), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90–490, title IV, § 401(a), 82 Stat. 789.)

AMENDMENTS

1968—Pub. L. 90–490 authorized appropriation of $20,000,000 for fiscal year ending June 30, 1970, and of $30,000,000 for the next fiscal year.

1965—Pub. L. 89–115 inserted "and for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, an aggregate of not to exceed $280,000,000,".

1962—Pub. L. 87–838 substituted "nine" for "six."

1961—Pub. L. 87–395 substituted "six" for "five" and "$50,000,000" for "$30,000,000" and inserted ", or research and related purposes," after "research".

1958—Pub. L. 85–777 substituted "five" for "two".

SHORT TITLE

Section 1 of Pub. L. 89–115 provided: "That this Act [amending this section and sections 241 and 292d of this title, and section 2211 of Title 5, and enacting former section 623h of Title 5 and provisions set out as a note thereunder] may be cited as the 'Health Research Facilities Amendments of 1965'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 292e of this title.

§ 292d. Applications.

(a) Time.

Applications for grants under this part shall be made not later than June 30, 1970.

(b) Eligibility.

To be eligible to apply for a grant under this part, the applicant must be a public or nonprofit institution, determined by the Surgeon General, after consultation with the Council, to be competent to engage in the type of research for which the facility is to be constructed.

(c) Recommendation and approval; findings required.

A grant under this part may be made only if the application therefor is recommended for approval by the Council and is approved by the Surgeon General upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b);

(2) the application contains or is supported by reasonable assurances that (A) for not less than ten years after completion of construction, the facility will be used for the purposes of research, or research and related purposes, in the sciences related to health for which it is to be constructed, (B) subject to subsection (d), sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the research, or research and related purposes for which it is being constructed;

(3) the proposed construction will expand the applicant's capacity for research in the sciences related to health, or is necessary to improve or maintain the quality of the applicant's research in the sciences related to health; and

(4) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of Title 40.

(d) Conditional approval.

Within such aggregate monetary limit as the Surgeon General may prescribe, after consultation with the Council, applications which (solely by reason of the inability of the applicants to give the assurance required by clause (B) of subsection (c) (2) of this section) fail to meet the requirements for approval set forth in subsection (c) of this section may be approved upon condition that the applicants give the assurance required by such clause (B) within a reasonable time and upon such other reasonable terms and conditions as he may determine after consultation with the Council.

(e) Matters considered.

In acting upon applications for grants, the Council and the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in expanding capacity for research, or research and related purposes, in the sciences related to health, in improving the quality of such research or related purposes, and in promoting an equitable geographical distribution of such research (giving due consideration to population, available scientific research workers, and available research resources in various areas of the Nation). (July 1, 1944, ch. 373, title VII, § 705, as added July 30, 1956, ch. 779, § 2, 70 Stat. 718, and amended Aug. 27, 1958, Pub. L. 85–777, § 1(b), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87–395, § 8 (b), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87–838, § 4(b), 76 Stat. 1074; Sept. 24, 1963, Pub. L. 88–129, §§ 2(a), 3(a), 77 Stat. 164, 173; Aug. 9, 1965, Pub. L. 89–115, § 2(b), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90–490, title IV, § 401(b), 82 Stat. 789.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (c)(4), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

The Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (c)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490 substituted "1970" for "1968".

1965—Subsec. (a). Pub. L. 89–115 substituted "1968" for "1965".

1963—Subsecs. (a), (b). Pub. L. 88–129, § 2(a), substituted "part" for "subchapter" wherever appearing.

Subsec. (c). Pub. L. 88–129, §§ 2(a), 3(a), substituted "part" for "subchapter" in the introductory provision and added par. (4), respectively.

1962—Subsec. (a). Pub. L. 87–838 substituted "1965" for "1962."

1961—Subsec. (a). Pub. L. 87–395, § 8(b), substituted "1962" for "1961".

Subsec. (c)(2). Pub. L. 87–395, § 8(d), inserted ", or research and related purposes," after "research" wherever appearing.

Subsec. (e). Pub. L. 87–395, § 8(d), inserted ", or research and related purposes," after "research" the first time it appears and "or related purposes" after "research" the second time it appears.

1958—Subsec. (a). Pub. L. 85–777 substituted "1961" for "1958".

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 292e. Amount of grant.

(a) Maximum.

(1) The amount of any grant made under this part shall be that recommended by the Council or such lesser amount as the Surgeon General determines to be appropriate; but such amount may not, except as provided in paragraph (2), exceed 50 per centum of the necessary cost of the construction of such facility, as determined by him, in the case of a facility which the Surgeon General determines to be used for research, or research and purposes related thereto (including research training), in the sciences related to health or, in the case of any other multipurpose facility, 50 per centum of that part of the necessary cost of construction which the Surgeon General determines to be proportionate to the contemplated use of the facility for research, or research and related purposes, in the sciences related to health.

(2) The maximum amount of any grant shall be 66⅔ per centum instead of the maximum under paragraph (1) in the case of any class or classes of projects which the Secretary determines have such special national or regional significance as to warrant a larger grant than is permitted under paragraph (1); but not more than 25 per centum of the funds appropriated pursuant to section 292c of this title for any fiscal year shall be available for grants in excess of 50 per centum with respect to such class or classes of projects.

(b) Reservation of amount of grants; manner of payments.

Upon approval of any application for a grant under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as he may determine. Such payments shall be made through the disbursement facilities of the Department of the Treasury. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) Exclusion of amounts granted by certain other funds.

In determining the amount of any grant under this part, there shall be excluded from the cost

of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant. (July 1, 1944, ch. 373, title VII, § 706, as added July 30, 1956, ch. 799, § 2, 70 Stat. 719, and amended Oct. 5, 1961, Pub. L. 87-395, § 8(c), (d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, § 2 (a), 77 Stat. 164; Aug. 16, 1968, Pub. L. 90-490, title IV, § 402, 82 Stat. 789.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-490 substituted "but such amount may not, except as provided in paragraph (2), exceed 50 per centum" for "except that in no event may such amount exceed 50 per centum", and designated existing provisions as amended as par. (1) and added par. (2), respectively.

1963—Pub. L. 88-129 substituted "part" for "subchapter" wherever appearing.

1961—Subsec. (a). Pub. L. 87-395 substituted "in the case of a facility which the Surgeon General determines is to be used for research, or research and purposes related thereto (including research training), in the sciences related to health or, in the case of any other multipurpose facility," for ", or in the case of a multipurpose facility" and "facility for research, or research and related purposes" for "facility for research."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 404 of Pub. L. 90-490 provided that: "The amendments made by section 402 [to subsec. (a) of this section] shall apply in the case of projects for which grants are made from appropriations for fiscal years ending after June 30, 1969."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 to 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 292f. Recapture of payments.

If, within ten years after completion of any construction for which funds have been paid under this part

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(b) the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so.

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility. (July 1, 1944, ch. 373, title VII, § 707, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Oct. 5, 1961, Pub. L. 87-395, § 8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88-129 substituted "part" for "subchapter" in the introductory phrase.

1961—Subsec. (b). Pub. L. 87-395 inserted ", or research and related purposes" after "research purposes."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 292g. Noninterference with administration of institutions.

Except as otherwise specifically provided in this part nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related purposes conducted by, and the personnel or administration of, any institution. (July 1, 1944, ch. 373, title VII, § 708, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Oct. 5, 1961, Pub. L. 87-395, § 8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88-129 substituted "part" for "subchapter" wherever appearing.

1961—Pub. L. 87-395 inserted "or related purposes" after "research."

§ 292h. Regulations.

(a) Within six months after July 30, 1956, the Surgeon General, after consultation with the Council and with the approval of the Secretary, shall prescribe general regulations covering the eligibility of institutions, and the terms and conditions for approving applications.

(b) The Surgeon General is authorized to make, with the approval of the Secretary, such administrative and other regulations as he finds necessary to carry out the provisions of this part. (July 1, 1944, ch. 373, title VII, § 709, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Sept. 24, 1963, Pub. L. 88-129, § 2(a), 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88-129 substituted "part" for "subchapter."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 292i. Reports; contents.

On or before January 15, 1957, and annually thereafter, the Surgeon General, in consultation with the Council, shall prepare an annual report and submit it to the President for transmission to the Congress summarizing the activities under this part and making such recommendations as he may deem appropriate. The report to be submitted on or before January 15, 1958, shall include an appraisal of the current program under this part in the light of its adequacy to meet the long-term needs for funds for the construction of non-Federal facili-

ties for research in the sciences related to health. Such reports and appraisals shall include minority views and recommendations, if any, of members of the Council. (July 1, 1944, ch. 373, title VII, § 710, as added July 30, 1956, ch. 779, § 2, 70 Stat. 720, and amended Sept. 24, 1963, Pub. L. 88–129, § 2(a), 77 Stat. 164.)

AMENDMENTS

1963—Pub. L. 88–129 substituted "part" for "subchapter" wherever appearing.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 292j. Technical assistance.

The Surgeon General is authorized to provide assistance to applicants under this part, and other public or nonprofit institutions engaging or competent to engage in research, or research and related purposes, in the sciences related to health, in designing and planning the construction of facilities for the conduct of such research or research and related purposes. (July 1, 1944, ch. 373, title VII, § 711, as added Sept. 24, 1963, Pub. L. 88–129, § 3(b), 77 Stat. 173.)

CODIFICATION

Section was enacted as a part of the Health Professions Educational Assistance Act of 1963 (see Short Title note under section 293 of this title) and not as a part of the Health Research Facilities Act of 1956 which comprises this part.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

PART B.—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL

§ 293. Authorization of appropriations.

There are hereby authorized to be appropriated $480,000,000 for the three fiscal years in the period beginning July 1, 1966, and ending June 30, 1969, of which not more than $160,000,000 may be available for grants before July 1, 1967, and not more than $320,000,000 may be available for grants before July 1, 1968, for—

(1) grants to assist in the construction of new teaching facilities for the training of physicians, pharmacists, optometrists, podiatrists, veterinarians, or professional public health personnel;

(2) grants to assist in the construction of new teaching facilities for the training of dentists; and

(3) grants to assist in the replacement or rehabilitation of existing teaching facilities for the training of physicians, pharmacists, optometrists, podiatrists, veterinarians, professional public health personnel, or dentists.

For such grants there are also authorized to be appropriated $170,000,000 for the fiscal year ending June 30, 1970, and $225,000,000 for the next fiscal year. Sums so appropriated for any fiscal year shall remain available for obligation through the close of the next fiscal year. (July 1, 1944, ch. 373, title VII, § 720, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 164, and amended Sept. 4, 1964, Pub. L. 88–581, § 3(a), 78 Stat. 919; Oct. 22, 1965, Pub. L. 89–290, § 3(a), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89–709, § 2(a), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, § 101 (a), (b)(1), 82 Stat. 773.)

AMENDMENTS

1968—Pub. L. 90–490 authorized appropriations of $170,000,000 and $225,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, and substituted provisions making appropriations for any fiscal year available for obligations through the close of the next fiscal year for former provisions for availability of appropriations until expended, respectively.

1966—Pub. L. 89–709 included veterinarians in clauses (1) and (3).

1965—Pub. L. 89–290 generally amended this section and, among other changes, extended for 3 fiscal years (fiscal years 1967, 1968, and 1969) the program of grants for construction of teaching facilities for medical, dental, and other health personnel, and authorized the appropriation of $480,000,000 for this 3-year period of which not more than $160,000,000 would be available for grants before July 1, 1967, and not more than $320,000,000 would be available for grants before July 1, 1968.

1964—Pub. L. 88–581 eliminated references to "nurses" to conform to the enactment of subchapter VI of this chapter by Pub. L. 88–581 which relates to nurse training.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 101(b)(2) of Pub. L. 90–490 provided that: "The amendments made by this subsection [as to fiscal year availability of appropriations] shall apply only with respect to appropriations for fiscal years ending after June 30, 1959."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 3(a) of Pub. L. 89–290 provided in part that the amendment of this section by Pub L. 89–290 shall be effective with respect to appropriations for fiscal years beginning after June 30, 1966.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(a) of Pub. L. 88–581 provided in part that the amendment to this section by Pub. L. 88–581 shall be effective with respect to appropriations for fiscal years beginning after June 30, 1965.

SHORT TITLE

Section 1 of Pub. L. 89–709 provided: "That this Act [amending this section and sections 293a, 293d, 293e, 294, 294a and 294b of this title] may be cited as the 'Veterinary Medical Education Act of 1966'."

Section 1 of Pub. L. 88–129 provided: "That this Act [which enacted sections 292j, 293—293h, 294—294e and amended sections 292—292b, 292d—292i of this title] may be cited as the 'Health Professions Educational Assistance Act of 1963'."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

STUDY OF SCHOOL AID AND STUDENT AID PROGRAMS

Section 131 of Pub. L. 90–490 provided that: "The Secretary shall, in consultation with the Advisory Councils established by sections 725 and 774 [sections 293e and 295f–4 of this title], prepare, and submit to the President and the Congress prior to July 1, 1970, a report on the administration of parts B, C, E, and F of title VII of the Public Health Service Act [parts B, C, E, and F of this subchapter], an appraisal of the programs under such parts in the light of their adequacy to meet the long-term needs for health professionals, and his recommendations as a result thereof."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 293a. Applications.

(a) Filing dates.

The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

(b) Eligibility.

(1) To be eligible to apply for a grant to assist in the construction of any facility under this part, the applicant must be (A) a public or other nonprofit school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health and (B) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient period of operation), is not, at the time of application for a grant to construct a facility under this part, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies (i) prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or (ii) if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

(2) Notwithstanding paragraph (1), in the case of an affiliated hospital, an application which is approved by the school of medicine or school of osteopathy with which the hospital is affiliated and which otherwise complies with the requirements of this part may be filed by any public or other nonprofit agency qualified to file an application under section 291h of this title.

(3) In the case of any application, whether filed by a school or, in the case of an affiliated hospital, by any other public or other nonprofit agency, for a grant under this part to assist in the construction of a facility which is a hospital as defined in section 291i of this title—

(A) if the facility is needed in connection with a new school, only that portion of the project to construct the facility which the Surgeon General determines to be reasonably attributable to the need of such school for the facility for teaching purposes,

(B) if the construction is in connection with expansion of the training capacity of an existing school, only that portion of the project to construct the facility which the Surgeon General determines to be reasonably attributable to the need of such school for the facility in order to expand its training capacity,

(C) if the construction is in connection with renovation or rehabilitation of facilities used by an existing school, only that portion of the project which the Surgeon General determines to be reasonably attributable to the need of such school for the facilities in order to prevent curtailment of enrollment or quality of training of the school,

shall be regarded as the project with respect to which payments may be made under section 293b of this title.

(c) Approval by Surgeon General; advice of Council.

A grant under this part may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b) of this section;

(2) the application contains or is supported by reasonable asssurances that (A) the facility is intended to be used for the purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for construction to expand the training capacity of an existing school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the next nine school years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 295f-1 (b) of this title, where applicable;

(3) (A) in the case of an application for a grant from funds appropriated pursuant to clause (1) of section 293 of this title, such application is for aid in the construction of a new school of medicine, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, or construction which will expand the training capacity of an existing school of medicine, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, (B) in the case of an application for a grant from funds appropriated pursuant to clause (2) of such section, such application is for aid in the construction of a new school of dentistry or construction which will expand the capacity of an existing school of dentistry, or (C) in the case of an application for a grant from funds appropriated pursuant to clause (3) of such section, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, osteopathy, or public health which are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided (and, for purposes of this part, expansion or curtailment of capacity for continuing education shall also be considered expansion and curtailment, respectively, of training capacity);

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

(5) the applicant contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 276c of Title 40; and

(6) if the application requests aid in construction of a facility which is a hospital or diagnostic or treatment center, as defined in section 291i of this title, an application with respect thereto has been filed under subchapter IV of this chapter and has been denied thereunder because (A) the project has no or insufficient priority, or (B) funds are not available for the project from the State's allotments under subchapter IV of this chapter.

Before approving or disapproving an application under this part, the Surgeon General shall secure the advice of the National Advisory Council on Education for Health Professions established by section 293e of this title (hereinafter in this part referred to as the "Council").

(d) Matters considered.

In considering applications for grants, the Council and the Surgeon General shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of, or used by, an existing school, (other than a project for facilities for continuing education) the relative effectiveness of the proposed facilities in expanding the capacity for the training of first-year students of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or osteopathy (or, in the case of a two-year school which is expanding to a four-year school, expanding the capacity for four-year training of students in the field), or for the training of professional public health personnel, and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, available physicians, pharmacists, optometrists, podiatrists, veterinarians, dentists, or professional public health personnel, and available resources in various areas of the Nation for training such persons); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of, or used by, a school, (other than a project for facilities for continuing education) the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State planning agency, or which participates in a regional or other interstate planning agency, described in section 293h of this title, the relationship of the application to the construction or training program which is being developed by such agency with respect to such State and, if such agency has reviewed such application, any comment thereon submitted by such agency.

(July 1, 1944, ch. 373, title VII, § 721, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 165, and amended Sept. 4, 1964, Pub. L. 88–581, § 3(b), 78 Stat. 919; Oct. 22, 1965, Pub. L. 89–290, §§ 3 (b), (c), 5(a), 79 Stat. 1056—1058; Nov. 2, 1966, Pub. L. 89–709, § 2(b), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, §§ 103(a)(3), 105 (a), (b), 82 Stat. 774.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (c)(5), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (c)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (c)(2)(A). Pub. L. 90–490, § 103(a)(3), substituted "the facility is intended to be used for the purposes for which the application has been made" for "for not less than ten years after construction, the facility will be used for the purposes of the teaching for which it is to be constructed".

Subsec. (c)(3). Pub. L. 90–490, § 105(a), provided that for the purposes of this part expansion or curtailment of capacity for continuing education shall also be considered expansion and curtailment of training capacity.

Subsec. (d)(1) (A), (B). Pub. L. 90–490, § 105(b), inserted "(other than a project for facilities for continuing education)" after "an existing school" in par. (A) and after "a school" in par. (B).

1966—Subsec. (b). Pub. L. 89–709 § 2(b)(1), included schools of veterinary medicine.

Subsec. (c). Pub. L. 89–709, § 2(b)(1), included schools of veterinary medicine in pars. (2) and (3).

Subsec. (d). Pub. L. 89–709, § 2(b), inserted words "veterinary medicine" and "veterinarians."

1965—Subsec. (a). Pub. L. 89–290, § 3(b), substituted provisions permitting the Surgeon General from time to time to set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed, for provisions which prohibited any application for a grant under this part to be approved unless submitted to the Surgeon General prior to July 1, 1965.

Subsec. (b)(1)(B). Pub. L. 89–290, § 5(a), struck out "upon completion of such facility" preceding "meet the accreditation", and added cl. (B) (i) and (ii).

Subsec. (c)(2)(D). Pub. L. 89–290, § 3(c), inserted "and the requirements of this clause (D) shall be in addition to the requirements of section 295f–1(b) of this title."

1964—Subsecs. (b), (c), (d). Pub. L. 88–581 eliminated references to "nursing" and "nurses" to conform to the enactment of subchapter VI of this chapter by Pub. L. 88–581 which relates to nurse training.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 105(d) of Pub. L. 90–490 provided that: "The amendments made by this section [to subsecs. (c)(3) and (d)(1) of this section and section 293d(4) of this title] shall apply in the case of projects for which grants are made under part B of title VII of the Public Health

Service Act [this part] from appropriations for fiscal years ending after June 30, 1969."

Amendment of subsec. (c)(2)(A) by section 103(a)(3) of Pub. L. 90–490 applicable in the case of assurances given after Aug. 16, 1968, under this part, see section 103(b) of Pub. L. 90–490, set out as a note under section 293c of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of subsecs. (b), (c), and (d) of this section by Pub. L. 88–581 effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965, see effective date note under section 291c of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 294, 294d, 295f–1, 295g of this title.

§ 293b. Amount of grant.

(a) Maximum payments.

(1) Except as provided in paragraph (2) of this subsection, the amount of any grant under this part shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council; except that (A) in the case of a grant for a project for a new school, and in the case of a grant for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, such amount may not exceed 66⅔ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not, except where the Secretary determines that unusual circumstances make a larger percentage (which in no case may exceed 66⅔ per centum) necessary in order to effectuate the purposes of this part, exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(2) The amount of any grant under this part for construction of a project with respect to a school of public health shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council, and may not exceed 75 per centum of the necessary cost of construction, as determined by the Surgeon General, of such project.

(b) Reservation of amount of grants; manner of payments.

Upon approval of any application for a grant under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) Exclusion of amounts granted by certain other funds.

In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) Grants for multipurpose facilities.

In the case of a project for construction of facilities which are primarily (as determined in accordance with regulations of the Secretary) for teaching purposes and for which a grant may be made under this part, but which also are for research purposes, or research and related purposes, in the sciences related to health (within the meaning of part A of this subchapter) or for medical library purposes (within the meaning of sections 280b to 280b–11 of this title), the project shall, insofar as all such purposes are involved, be regarded as a project for facilities with respect to which a grant may be made under this part. (July 1, 1944, ch. 373, title VII, § 722, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 168, and amended Aug. 16, 1968, Pub. L. 90–490, title I, §§ 120(a), 104(a), 82 Stat. 773, 774.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–490, § 102(a), substituted "such amount may not, except where the Secretary determines that unusual circumstances make a larger percentage (which in no case may exceed 66⅔ per centum) necessary in order to effectuate the purpose of this part, exceed 50 per centum" for "such amount may not exceed 50 per centum".

Subsec. (d). Pub. L. 90–490, § 104(a), added subsec. (d).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 102(b) of Pub. L. 90–490 provided that: "The amendment made by this section [to subsec. (a)(1) of this section] shall apply in the case of projects for which grants are made from appropriations for fiscal years ending after June 30, 1969."

Section 104(b) of Pub. L. 90–490 provided that: "The amendment made by subsection (a) [adding subsec. (d) of this section] shall apply in the case of projects for which grants are made under part B of title VII of the Public Health Service Act [this part] from appropriations for fiscal years ending after June 30, 1969."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293c of this title.

§ 293c. Recapture of payments.

If, within twenty years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit school or,

in case the facility was an affiliated hospital, the applicant or other owner of the facility ceases to be a public or other nonprofit agency qualified to file an application under section 291h of this title, or

(b) the facility shall cease to be used for the teaching purposes (and the other purposes permitted under section 293b of this title) for which it was constructed, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

(c) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility. (July 1, 1944, ch. 373, title VII, § 723, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 168, and amended Aug. 16, 1968, Pub. L. 90–490, title I, § 103 (a)(1), (2), 82 Stat. 773.)

AMENDMENTS

1968—Pub. L. 90–490, § 103(a)(2), substituted "twenty" for "ten" in the introductory text.

Subsec. (b). Pub. L. 90–490, § 103(a)(1), provided for recapture of payments when the facility is not used for the purposes permitted under section 293b of this title and substituted "Secretary" for "Surgeon General".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 103(b) of Pub. L. 90–490 provided that: "The amendments made by subsection (a) (1) and (2) [to subsec. (b) and text preceding subsec. (a) of this section] shall apply in the case of facilities for which a grant has been or is in the future made under part B of title VII of the Public Health Service Act [this part]. The amendment made by subsection (a)(3) [to section 293a (c)(2)(A) of this title] shall apply in the case of assurances given after the date of enactment of this Act [Aug. 16, 1968] under such part B [this part]."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all the functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 293d. Definitions.

As used in this part and parts C, E, and F—

(1) The terms "construction" and "cost of construction" include (A) the construction of new buildings, the expansion of existing buildings, and remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or offsite improvements, and (B) initial equipment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) The term "nonprofit school" means a school owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(3) The term "affiliated hospital" means a hospital, as defined in section 291i of this title, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine or school of osteopathy which meets the eligibility conditions set forth in section 293a(b)(1) of this title;

(4) The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or doctor of pharmacy, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatry or doctor of surgical chiropody, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health, and including advanced training related to such training provided by any such school; and

(5) The term "school of nursing" means a department, school, division, or other administrative unit, in a college or university, which provides, primarily or exclusively, a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or other baccalaureate degree of equivalent rank; or to a graduate degree in nursing. (July 1, 1944, ch. 373, title VII, § 724, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 169, and amended Oct. 22, 1965, Pub. L. 89–290, § 2(b), 79 Stat. 1056; Nov. 2, 1966, Pub. L. 89–709, § 2(c), 80 Stat. 1103; Aug. 16, 1968, Pub. L. 90–490, title I, § 105(c), 82 Stat. 774.)

AMENDMENTS

1968—Par. (4). Pub. L. 90–490 inserted "and including advanced training related to such training provided by any such school".

1966—Par. (4). Pub. L. 89–709 included school of veterinary medicine and defined such term to mean a school which provides training leading to a degree of doctor of veterinary medicine or an equivalent degree.

1965—Pub. L. 89–290 substituted "As used in this part and parts C, E, and F", for "As used in this part."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–490 applicable in the case of projects for which grants are made under this part from appropriations for fiscal years ending after June 30, 1969, see section 105(d) of Pub. L. 90–490, set out as a note under section 293a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295h–4 of this title and in title 20 section 751.

§ 293e. National Advisory Council on Education for Health Professions.

(a) Establishment; composition; selection of members.

There is hereby established in the Public Health Service a National Advisory Council on Education for Health Professions, consisting of the Surgeon General of the Public Health Service, who shall be Chairman, and the Commissioner of Education, both

of whom shall be ex officio members, and seventeen members appointed by the Secretary without regard to the civil service laws. Four of the appointed members shall be selected from the general public and thirteen shall be selected from among leading authorities in the fields of higher education, at least nine of whom are particularly concerned with training in medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or the public health professions. In selecting persons for appointment to the Council, consideration shall be given to such factors, among others, as (1) experience in the planning, constructing, financing, or administration of schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or schools of public health, and (2) familiarity with the need for teaching facilities in all areas of the Nation.

(b) Functions.

The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part, and in the review of applications thereunder.

(c) Administration.

The Surgeon General is authorized to use the services of any member or members of the Council in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as he may determine. The Surgeon General shall, in addition, make appropriate provision for consultation between and coordination of the work of the Council and the National Advisory Council on Health Research Facilities with respect to matters bearing on the purposes and administration of this part. (July 1, 1944, ch. 373, title VII, § 275, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 169, and amended Sept. 4, 1964, Pub. L. 88–581, § 3(c), 78 Stat. 919; Nov. 2, 1966, Pub. L. 89–709, § 2(d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 3(a), 80 Stat. 1230; Dec. 5, 1967, Pub. L. 90–174, § 12(c), 81 Stat. 541; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (d). Pub. L. 91–515 struck out subsec. (d) which related to the payment of compensation and travel expenses of appointed members of the Council.

1967—Subsec. (a). Pub. L. 90–174 increased the number of Council members appointed from among leading authorities in fields of higher education from twelve to thirteen.

1966—Subsec. (a). Pub. L. 89–709 substituted "seventeen members" for "sixteen members" and "at least nine of whom" for "at least eight of whom", and inserted words "veterinary medicine," after "podiatry," in two instances.

Subsec. (d). Pub. L. 89–751 substituted "$100" for "50."

1964—Subsec. (a). Pub. L. 88–581 eliminated references to "nursing" to conform to the enactment of subchapter VI of this chapter by Pub. L. 88–581 which relates to nurse training.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(c) of Pub. L. 88–581 provided that the amendment to subsec. (a) of this section by Pub. L. 88–581 shall be effective with respect to appointments to the National Advisory Council on Education for Health Professions made after Sept. 4, 1964.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

§ 293f. Noninterference with administration of institutions.

Nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution. (July 1, 1944, ch. 373, title VII § 726, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170.)

§ 293g. Regulations.

(a) The Surgeon General, after consultation with the Council and with the approval of the Secretary, shall prescribe general regulations for this part covering the eligibility of institutions, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and minimum standards of construction and equipment for various types of institutions.

(b) The Surgeon General is authorized to make, with the approval of the Secretary, such other regulations as he finds necessary to carry out the provisions of this part. (July 1, 1944, ch. 373, title VII, § 727, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 293h. Technical assistance.

In carrying out the purposes of this part, and to further the development of State, or joint or coordinated regional or other interstate, planning of programs for relieving shortages of training capacity in the fields of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and public health, through constructing teaching facilities, providing adequate financial support for schools, or otherwise, the Surgeon General is authorized to provide technical assistance and consultative services to State or interstate planning agencies established for any of such purposes. (July 1, 1944, ch. 373, title VII, § 728, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 170, and amended Sept. 4, 1964, Pub. L. 88–581, § 3(d), 78 Stat. 919.)

AMENDMENTS

1964—Pub. L. 88-581 deleted "nursing" following "poditary."

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(d) of Pub. L. 88-581 provided that the amendment of this section by Pub. L. 88-581 shall be effective July 1, 1965.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293a of this title.

PART C.—STUDENT LOANS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 293d, 295g-1 of this title.

§ 294. Loan agreements for establishment of student loan funds.

(a) Authority of Secretary of Health, Education, and Welfare.

The Secretary of Health, Education, and Welfare is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this part with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 293a(b)(1)(B) of this title.

(b) Terms and conditions.

Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 294f of this title, of (A) the Federal capital contributions to the fund, (B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 294a(j) of this title, and (E) any other earnings of the fund;

(3) provide that the fund, except as provided in section 294f of this title, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree and that while the agreement remains in effect no such student who has attended such school before July 1, 1971, shall receive a loan from a loan fund established under section 424 of Title 20; and

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

(July 1, 1944, ch. 373, title VII, § 740, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 170, and amended Oct. 13, 1964, Pub. L. 88-654, § 1 (a), (b), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89-290, §§ 2(b), 4 (a), (f) (1), (2), 79 Stat. 1056—1058; Nov. 2, 1966, Pub. L. 89-709, § 3(a), (b), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 5(c)(1), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(a) (1), (2), (5)(B), 82 Stat. 777, 778.)

AMENDMENTS

1968—Subsec. (b)(2). Pub. L. 90-490, § 121(a) (1), (5)(B), inserted ", except as provided in section 294f of this title," after "fund" where first appearing and added cl. (D) and redesignated former cl. (D) as (E), respectively.

Subsec. (b)(3). Pub. L. 90-940, § 121(a)(1), inserted ", except as provided in section 294f of this title," after "fund" where first appearing.

Subsec. (b)(4). Pub. L. 90-490, § 121(a)(2), substituted "1971" for "1969".

1966—Subsec. (a). Pub. L. 89-709, § 3(a), included schools of veterinary medicine.

Subsec. (b)(2). Pub. L. 89-751 substituted "(A) the Federal capital contributions to the fund, (B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution" for "(A) the amounts allocated under this part to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of amounts deposited pursuant to clause (A)."

Subsec. (b)(4). Pub. L. 89-709, § 3(b), included students pursuing a full-time course leading to a degree of doctor of veterinary medicine or an equivalent degree.

1965—Subsec. (a). Pub. L. 89-290, §§ 2(b), 4(f)(1), struck out "(as defined in section 293d of this title)" following "optometry", and inserted "pharmacy, podiatry."

Subsec. (b)(4). Pub. L. 89-290, § 4(a), (f)(2), substituted "July 1, 1969" for "July 1, 1966", and inserted "bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody."

1964—Subsec. (a). Pub. L. 88-654, § 1(a), included schools of optometry.

Subsec. (b)(4). Pub. L. 88-654, § 1(b), inserted doctor of optometry or an equivalent degree.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (b) (2), (3) by section 121(a)(1), inserting the exception provisions, applicable with respect to appropriations for fiscal years ending after June 30, 1969, and amendment of subsec. (b)(2) by section 121(a)(5)(B), inserting new cl. (D), applicable with respect to loans made after June 30, 1969, see section 121(f) of Pub. L. 90-490, set out as a note under section 294f of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5(d)(1) of Pub. L. 89-751 provided that: "The amendments made by this section [to this section and sections 294b—294d of this title] shall be effective in the case of payments to student loan funds made after the enactment of this Act [Nov. 3, 1966], except in the case of payments pursuant to commitments (made prior to enactment of this Act [Nov. 3, 1966]) to make loans under section 744 of the Public Health Service Act [section 294d of this title] as in effect prior to the enactment of this Act [Nov. 3, 1966]."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 4(f)(5) of Pub. L. 89-290 provided that: "The amendments made by paragraphs (1), (2), (3), and (4) of this subsection [to subsecs. (a) and (b)(4) of this section and subsecs. (b) and (c) of section 294a of this title] shall be effective with respect to periods beginning on or after July 1, 1966."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 294b—294d, 294f of this title.

§ 294a. Loan provisions.

(a) Academic year limitation; preferences.

Loans from a loan fund established under this part may not exceed $2,500 for any student for any academic year or its equivalent. In the granting of such loans, a school shall give preference to persons who enter as first-year students after June 30, 1963.

(b) School determination of terms and conditions; needy students eligible.

Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

(c) Repayment in periodic installments; acceleration; commencement and duration of period; exclusions from period.

Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act; and periods (up to five years) of advanced professional training including internships and residencies)[1]

(d) Cancellation of liability for repayment.

The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled.

(e) Interest.

Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 3 per centum per year.

(f) Cancellation of part of loan and interest thereon.

Where any person who obtained one or more loans from a loan fund established under this part—

(1) engages in the practice of medicine, dentistry, optometry, or osteopathy in an area in a State determined by the appropriate State health authority, in accordance with regulations provided by the Secretary, to have a shortage of and need for physicians, optometrists or dentists; and

(2) the appropriate State health authority certifies to the Secretary of Health, Education, and Welfare in such form and at such times as the Secretary may prescribe that such practice helps to meet the shortage of and need for physicians, optometrists or dentists in the area where the practice occurs; then 10 per centum of the total of such loans, plus accrued interest on such amount, which are unpaid as of the date that such practice begins, shall be canceled thereafter for each year of such practice, up to a total of 50 per centum of such total, plus accrued interest thereon. In the case of a physician, dentist, or optometrist, the rate shall be 15 per centum (rather than 10 per centum) for each year of such practice in an area in a State which for purposes of this subsection and for that year has been determined by the Secretary, pursuant to regulations and after consultation with the appropriate State health authority, to be a rural area characterized by low family income; and, for the purpose of any cancellation pursuant to this sentence, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled.

(g) Security or endorsement; minor borrowers.

Loans shall be made under this part without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(h) Transfer or assignment of evidences of loans.

No note or other evidence of a loan made under this part may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

(i) Payments to school upon cancellation of loans or interest.

Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(j) Penalty for late payment.

Subject to regulations of the Secretary, a school may assess a charge with respect to a loan made under this part for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) of this section or cancellation of part or all of the loan under subsection (f) of this section, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

[1] So in original. There is no opening parenthesis.

(k) Minimum monthly repayment.

A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this part payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month. (July 1, 1944, ch. 373, title VII, § 741, as added Sept. 24, 1963, Pub. L. 88-129, § 2(b), 77 Stat. 171, and amended Oct. 13, 1964, Pub. L. 88-654, § 1(c), (d), 78 Stat. 1086; Oct. 22, 1965, Pub. L. 89-290, § 4 (b), (f) (3), (4), (g) (1), 79 Stat. 1057, 1058; Nov. 2, 1966, Pub. L. 89-709, § 3(c), (d), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89-751, § 4, 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90-490, title I, § 121(a) (3), (4), (5)(A), 82 Stat. 777.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (c)(2), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-490, § 121(a)(3), provided for commencement of repayment one year, rather than three, after student ceases to pursue full-time course of study and excluded from ten-year repayment periods (up to five years) of advanced professional training including internships and residencies.

Subsec. (e). Pub. L. 90-490, § 121(a)(4), struck out provisions for an interest rate which is the greater of 3 per centum or the going Federal rate at time loan is made, defining going Federal rate, and making rate determined for first loan applicable to any subsequent loan.

Subsecs. (j), (k). Pub. L. 90-490, § 121(a)(5)(A), added subsecs. (j) and (k).

1966—Subsec. (b). Pub. L. 89-709, § 3(c), included students pursuing a full time course leading to a degree of doctor of veterinary medicine or an equivalent degree.

Subsec. (c). Pub. L. 89-709, § 3(d), included schools of veterinary medicine.

Subsec. (f). Pub. L. 89-751 inserted provisions requiring, in the case of a physician, dentist, or optometrist, that the rate shall be 15 per centum (rather than 10 per centum) for each year of such practice in an area in a State which for purposes of this subsection and for that year has been determined by the Secretary to be a rural area characterized by low family income; and, for the purpose of any cancellation pursuant to these provisions, an amount equal to an additional 50 per centum of the total amount of such loans plus interest is authorized to be cancelled.

1965—Subsec. (a). Pub. L. 89-290, § 4(b)(1), substituted "may not exceed $2,500" for "may not exceed $2,000."

Subsec. (b). Pub. L. 89-290, § 4(f)(3), inserted "bachelor of science in pharmacy or doctor of pharmacy, doctor of podiatry or doctor of surgical chiropody."

Subsec. (c). Pub. L. 89-290, § 4(f)(4), inserted "pharmacy, podiatry."

Subsec. (e). Pub. L. 89-290, § 4(g)(1), applied the rate of interest for the first loan obtained by a student from a loan fund established under this part to any subsequent loan to such student from such fund during his course of study.

Subsec. (f). Pub. L. 89-290, § 4(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsecs. (g)—(i). Pub. L. 89-290, § 4(b)(2), redesignated former subsec. (f)—(h) as (g)—(i), respectively.

1964—Subsec. (b). Pub. L. 88-654, § 1(c), inserted doctor of optometry or an equivalent degree.

Subsec. (c). Pub. L. 88-654, § 1(d), included schools of optometry.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c) applicable with respect to all loans made under an agreement under this part after June 30, 1969, and with respect to loans thereunder before July 1, 1969, to extent agreed to by the school which made the loans and the Secretary (but only as to years beginning after June 30, 1969, and amendment of subsec. (e) and enactment of subsecs. (j) and (k) applicable with respect to loans made after June 30, 1969, see section 121(f) of Pub. L. 90-490, set out as a note under section 294f of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsecs. (b) and (c) of this section by Pub. L. 89-290 effective with respect to periods beginning on or after July 1, 1966, see section 4(f)(5) of Pub. L. 89-290, set out as a note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 294, 294d of this title.

§ 294b. Authorization of appropriations.

(a) Availability for health professions education fund and for school loan funds.

There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out this part (other than section 294d of this title) $5,100,000 for the fiscal year ending June 30, 1964, $10,200,000 for the fiscal year ending June 30, 1965, $15,400,000 for the fiscal year ending June 30, 1966, $25,000,000 each for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, and $35,000,000 each for the fiscal year ending June 30, 1970, and the next fiscal year. In addition to the sums authorized to be appropriated by the preceding sentence, there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1967, $1,000,000 for the fiscal year ending June 30, 1968, and $1,500,000 for the fiscal year ending June 30, 1969, which sums shall be available for carrying out this part (other than section 294d of this title) solely with respect to students of veterinary medicine. There are further authorized to be appropriated to the Secretary such sums for the fiscal year ending June 30, 1972, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1971, to continue or complete their education. Sums appropriated under this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 294d(d) of this title, (2) for making Federal capital contributions into loan funds at schools which have established loan funds under this part, and (3) for transfers pursuant to section 294f of this title.

(b) Time for applications for capital contributions or loans; reduction of allotments; reallotments; allotment of excess funds; payments in installments to prevent accumulations.

(1) The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions, and for loans pursuant to section 294d of this title.

(2) If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in

such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

(3) Funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 294d of this title) which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this part.

(4) Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school. (July 1, 1944, ch. 373, title VII, § 742, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 172, and amended Oct. 22, 1965, Pub. L. 89–290, § 4(c), 79 Stat. 1057; Nov. 2, 1966, Pub. L. 89–709, § 3(e), 80 Stat. 1103; Nov. 3, 1966, Pub. L. 89–751, § 5(b), 80 Stat. 1232; Aug. 16, 1968, Pub. L. 90–490, title I, § 121 (b), 82 Stat. 778.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490 authorized appropriations of $35,000,000 each for the fiscal year ending June 30, 1970, and the next fiscal year, and necessary sums for fiscal year ending June 30, 1972, rather than 1970, and two succeeding fiscal years for loans to students receiving loan for any academic year ending before July 1, 1971, rather than 1969, and made appropriations available for transfers pursuant to section 294f of this title, respectively.

1966—Subsec. (a). Pub. L. 89–751, § 5(b)(1), substituted "Sums appropriated under this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 294d(d) of this title, and (2) for making Federal capital contributions into loan funds at schools which have established loan funds under this part" for "Sums appropriated pursuant to this subsection shall be allotted among loan funds at schools which have established loan funds under this part."

Pub. L. 89–709 authorized appropriations for the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, which sums shall be available for carrying out this part (other than section 294d of this title) solely with respect to students of veterinary medicine.

Subsec. (b)(1). Pub. L. 89–751, § 5(b)(2), substituted "schools must file applications for Federal capital contributions, and for loans pursuant to section 294d of this title" for "schools with which he has in effect agreements under this part must file applications for allotments to their loan funds."

Subsec. (b)(2). Pub. L. 89–751, § 5(b)(3), substituted "appropriated under this section" for "appropriated under this part."

Subsec. (b)(3). Pub. L. 89–751, § 5(b)(4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(4). Pub. L. 89–751, § 5(b)(4), redesignated former par. (3) as (4).

1965—Subsec. (a). Pub. L. 89–290 inserted "(other than section 744)", which for purposes of codification has been changed to "(other than section 294d of this title)", and substituted provisions authorizing the appropriation of $25,000,000 each for the fiscal year ending June 30, 1967, and the two succeeding fiscal years, and authorizing the appropriation of such sums for the fiscal year ending June 30, 1970, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1969, to continue or complete their education for provisions which authorized the appropriation of such sums for the fiscal year ending June 30, 1967, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1966, to continue or complete their education.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a) by section 121(b)(3) of Pub. L. 90–490, making appropriations available for transfers pursuant to section 294f of this title, applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 121(f) of Pub. L. 90–490, set out as a note under section 294f of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 294d of this title as in effect prior to Nov. 3, 1966, see section 5(d)(1) of Pub. L. 89–751, set out as a note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 294d of this title.

§ 294c. Distribution of assets from loan funds.

(a) After June 30, 1974, and not later than September 30, 1974, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 294(b) of this title by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1974, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 294(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 294(b)(2)(B) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1974, each school with which the Secretary has made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1974, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 294d(d) of this title) as was determined for the Secretary under subsection (a) of this section. (July 1, 1944, ch. 373, title VII, § 743, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 172, and amended Oct. 22, 1965, Pub. L. 89–290, § 4(d), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89–751, § 5(c)(2), (3), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(c), 82 Stat. 778.)

AMENDMENTS

1968—Pub. L. 90–490 substituted "1974" for "1972" wherever appearing.

1966—Subsec. (a). Pub. L. 89–751, § 5(c)(2), substituted "section 294(b) of this title" for "this part" in the opening provisions, and in par. (1) substituted "such balance" for "the balance" and "total amount of

the Federal capital contributions to such fund by the Secretary pursuant to section 294(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions" for "total amount of the allotments to such fund by the Secretary under this part bears to the total amounts in such fund derived from such allotments."

Subsec. (b). Pub. L. 89-751, § 5(c)(3), inserted parenthetical phrase "(other than so much of such fund as relates to payments from the revolving fund established by section 294d(d) of this title)."

1965—Subsec. (a). Pub. L. 89-290 substituted "1972" for "1969" wherever appearing.

Subsec. (b). Pub. L. 89-290 substituted "1972" for "1969" wherever appearing.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89-751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 294d of this title as in effect prior to Nov. 3, 1966, see section 5(d)(1) of Pub. L. 89-751, set out as a note under section 294 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293d of this title.

§ 294d. Loans to schools to capitalize health professions student loan funds.

(a) Fiscal years available; terms, conditions, and limitations; institutional contributions; interest.

(1) During the fiscal years ending June 30, 1967, and June 30, 1968, and each of the next three fiscal years, the Secretary may make loans, from the revolving fund established by subsection (d) of this section, to any public or other nonprofit school referred to in section 294(a) of this title which is located in a State and is accredited as provided in section 293a (b)(1)(B) of this title, to provide all or part of the capital needed by any such school for making loans to students under this section (other than capital needed to finance the institutional contributions required by section 294 (b)(2)(B) of this title). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in section 294a of this title. The requirement in section 294(b)(2)(B) of this title with respect to institutional contributions to student loan funds shall not apply to loans made to schools under this section.

(2) A loan to a school under this section may be upon such terms and conditions, consistent with applicable provisions of section 294 of this title, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this section will be achieved, these terms and conditions may include provisions making the school's obligation to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (A) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, and (B) probable losses.

(b) Payments to schools to cover certain costs incurred in making students loans from borrowed funds; authorization of appropriations.

If a school borrows any sums under this section, the Secretary shall agree to pay to the school (1) an amount equal to 90 per centum of the loss to the school from defaults on student loans made from such sums, (2) the amount by which the interest payable by the school on such sums exceeds the interest received by it on student loans made from such sums, (3) an amount equal to the collection expenses authorized by section 294(b)(3) of this title with respect to such sums, and (4) the amount of principal which is canceled pursuant to section 294a (d) or (f) of this title with respect to student loans made from such funds. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this subsection.

(c) Limitation on loans from revolving fund.

The total of the loans made in any fiscal year under this section may not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $45,000,000 and the amount of Federal funds (other than loans under this section) deposited in student loan funds under this part for that year.

(d) Health professions education revolving fund; authorization of appropriations.

(1) There is hereby created within the Treasury a health professions education fund (hereinafter in this section called "the fund") which shall be available to the Secretary without fiscal-year limitation as a revolving fund for the purposes of this section. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 847, 848, and 849 of Title 31) for wholly owned Government Corporations.

(2) The fund shall consist of appropriations paid into the fund pursuant to section 294b(a) of this title, appropriations made pursuant to this subsection, all amounts received by the Secretary as interest payments or repayments of principal on loans under this section, and any other moneys, property, or assets derived by him from his operations in connection with this section (other than subsection (b) of this section), including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund.

(3) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this section (other than subsection (b) of this section) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 1717(c) of Title 12, of participations in obligations acquired under this section. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this section, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be deter-

mined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(4) In addition to the sums authorized to be appropriated by section 294b(a) of this title, there are authorized to be appropriated to the fund established by this subsection $10,000,000 for the fiscal year ending June 30, 1967. (July 1, 1944, ch. 373, title VII, § 744, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 173, and amended Oct. 22, 1965, Pub. L. 89–290, § 4(e), 79 Stat. 1057; Nov. 3, 1966, Pub. L. 89–751, § 5(a), 80 Stat. 1230; Aug. 16, 1968, Pub. L. 90–490, title I, § 121(d), 82 Stat. 778.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–490, § 121(d)(1), made the loan provisions applicable during three fiscal years ending after June 30, 1968.

Subsec. (c)(2). Pub. L. 90–490, § 121(d)(2), substituted "$45,000,000" for "$35,000,000".

1966—Pub. L. 89–751 substituted provisions designated as subsecs. (a)–(d) authorizing loans to schools to capitalize health professions student loan funds for former authorization of loans to schools to finance deposits in school loan funds.

1965—Pub. L. 89–290 authorized the appropriation of such sums as may be necessary to carry out the purposes of this section, but not to exceed a total of $1,500,000, and required loans made by the Surgeon General under this section to mature within such periods as may be determined by the Surgeon General to be appropriate in each case, but not exceeding fifteen years.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under this section as in effect prior to Nov. 3, 1966, see section 5(d)(1) of Pub. L. 89–751, set out as a note under section 294 of this title.

CONVERSION OF FEDERAL CAPITAL CONTRIBUTION TO A LOAN UNDER THIS SECTION

Section 5(d)(2) of Pub. L. 89–751 provided that: "The Secretary of Health, Education, and Welfare is authorized, at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 740(b)(2)(A) of the Public Health Service Act [section 294(b)(2)(A) of this title]) to a student loan fund of such institution, made under title VII of the Public Health Service Act [this subchapter] from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 744 of such Act [this section] as amended by this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 294b, 294c, of this title.

§ 294e. Administrative provisions.

The Secretary may agree to modifications of agreements or loans made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part. (July 1, 1944, ch. 373, title VII, § 745, as added Sept. 24, 1963, Pub. L. 88–129, § 2(b), 77 Stat. 173.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 293d of this title.

§ 294f. Transfer of funds to scholarships.

Not to exceed 20 per centum of the amount paid to a school from the appropriations for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under part F of this subchapter to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 294(b)(2)(B) of this title with respect to the amount so transferred may be withdrawn by the school from such fund. (July 1, 1944, ch. 373, title VII, § 746, as added Aug. 16, 1968, Pub. L. 90–490, title I, § 121(e), 82 Stat. 778.)

EFFECTIVE DATE

Section 121(f) of Pub. L. 90–490 provided that: "The amendments made by subsections (a)(1), (b)(3), and (e) [amending 294 (b)(2), (3), 294b(a), 4th Sent. And adding this section] shall apply with respect to appropriations for fiscal years ending after June 30, 1969. The amendment made by subsection (a)(3) [to section 294a (c) of this title] shall apply (1) with respect to all loans made under an agreement under part (C) of title VII of the Public Health Service Act [this part] after June 30, 1969, and (2) with respect to loans made thereunder before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but, then, only as to years beginning after June 30, 1969). The amendment made by subsection (a) (4) [to section 294a(e) of this title] and (5) shall apply with respect to loans made after June 30, 1969."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 294b of this title.

PART D.—GRANTS FOR CONSTRUCTION OF MENTAL RETARDATION RESEARCH FACILITIES

CROSS REFERENCES

Mental retardation facilities and mental health centers, see section 2661 et seq. of this title.

§ 295. Authorization of appropriations.

There are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1964, $8,000,000 for the fiscal year ending June 30, 1965, and $6,000,000 each for the fiscal year ending June 30, 1966, and the fiscal year ending June 30, 1967, for project grants to assist in meeting the costs of construction of facilities for research, or research and related purposes, relating to human development, whether biological, medical, social, or behavioral, which may assist in finding the causes, and means of prevention, or mental retardation, or in finding means of ameliorating effects of mental reretardation. Sums so appropriated shall remain available until expended for payments with respect to projects or[1] which applications have been filed under this part before July 1, 1967, and approved by

[1] So in original. Probably should be "for."

the Surgeon General thereunder before July 1, 1968. (July 1, 1944, ch. 373, title VII, § 761, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 282.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 295a. Applications.

(a) Approval by Surgeon General.

Applications for grants under this part with respect to any facility may be approved by the Surgeon General only if—

(1) the applicant is a public or nonprofit institution which the Surgeon General determines is competent to engage in the type of research for which the facility is to be constructed; and

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the research, or research and related purposes, for which it was constructed; (B) sufficient funds will be available for meeting the non-Federal share of the cost of constructing the facility; (C) sufficient funds will be available, when the construction is completed, for effective use of the facility for the research, or research and related purposes, for which it was constructed; and (D) all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the center will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; and the Secretary of Labor shall have, with respect to the labor standards specified in this clause (D) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176), and section 276c of Title 40.

(b) Matters considered.

In acting on applications for grants, the Surgeon General shall take into consideration the relative effectiveness of the proposed facilities in expanding the Nation's capacity for research and related purposes in the field of mental retardation and related aspects of human development, and such other factors as he, after consultation with the national advisory council or councils concerned with the field or fields of research involved, may by regulation prescribe in order to assure that the facilities constructed with such grants, severally and together, will best serve the purpose of advancing scientific knowledge pertaining to mental retardation and related aspects of human development. (July 1, 1944, ch. 373, title VII, § 762, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 282.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(2)(D), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176), referred to in subsec. (a)(2)(D), is set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 295b. Amount of grants.

(a) Maximum payments.

The total of the grants with respect to any project for the construction of a facility under this part may not exceed 75 per centum of the necessary cost of construction of the center as determined by the Surgeon General.

(b) Advances or reimbursement; installments; conditions.

Payments of grants under this part shall be made in advance or by way of reimbursement, in such installments consistent with construction progress, and on such conditions as the Surgeon General may determine.

(c) Nonduplication of grants.

No grant may be made after January 1, 1964, under any provision of this chapter other than this part, for any of the four fiscal years in the period beginning July 1, 1963, and ending June 30, 1967, for construction of any facility described in this part, unless the Surgeon General determines that funds are not available under this part to make a grant for the construction of such facility. (July 1, 1944, ch. 373, title VII, § 763, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 283.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 295c. Recovery of expenditures under certain conditions.

If, within twenty years after completion of any construction for which funds have been paid under this part—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit institution, or

(2) the facility shall cease to be used for the research purposes, or research and related purposes, for which it was constructed, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility. (July 1, 1944, ch. 373, title VII, § 764, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 283.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 295d. Noninterference with administration of institutions.

Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related purposes conducted by, and the personnel or administration of, any institution. (July 1, 1944, ch. 373, title VII, § 765, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 284.)

§ 295e. Definitions.

As used in this part—

(1) the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered;

(2) the term "nonprofit institution" means an institution owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(July 1, 1944, ch. 373, title VII, § 766, as added Oct. 31, 1963, Pub. L. 88–164, title I, § 101, 77 Stat. 284.)

PART E.—INSTITUTIONAL AND SPECIAL PROJECT GRANTS FOR TRAINING OF HEALTH PROFESSIONS PERSONNEL

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 293d of this title.

§ 295f. Authorization of appropriations.

(a) There are authorized to be appropriated $117,000,000 for the fiscal year ending June 30, 1970, and $168,000,000 for the fiscal year ending June 30, 1971, for institutional grants under section 295f–1 and special project grants under section 295f–2 of this title.

(b) The portion of the sums so appropriated for each fiscal year which shall be available for grants under each such section shall be determined by the Secretary unless otherwise provided in the Act or Acts appropriating such sums for such year. (July 1, 1944, ch. 373, title VII, § 770, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1052, and amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(a), 82 Stat. 774.)

AMENDMENTS

1968—Pub. L. 90–490 substituted appropriations authorization of $117,000,000 and $168,000,000 for fiscal years ending June 30, 1970, and 1971, respectively for institutional and special project grants under sections 295f–1 and 295f–2 of this title to be apportioned for grants under each such section by the Secretary for appropriations authorization of $20,000,000; $40,000,000; $60,000,000; and $80,000,000 for fiscal years ending June 30, 1966, 1967, 1968, and 1969, respectively, for grants to improve quality of educational programs in schools of medicine, dentistry, osteopathy, optometry, and podiatry.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 111(d) of Pub. L. 90–490 provided that: "The amendments made by this section [to this section and sections 295f–1 to 295f–4 and 295g(d) of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

SHORT TITLE

Section 1 of Pub. L. 89–290 provided: "That this Act [which enacted sections 295f to 295f–4 and 295g of this title, and amended sections 293, 293a, 293d, 294—294d, 297b, and 298b of this title] may be cited as the 'Health Professions Educational Assistance Amendments of 1965'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 295f–1, 295f–2 of this title.

§ 295f–1. Institutional grants.

(a) Distribution; computations; increases; adjustments.

(1) The sums available for grants under this section from appropriations under section 295f of this title for the fiscal year ending June 30, 1970, and for the next fiscal year shall be distributed to the schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry with approved applications as follows: Each school shall receive $25,000; and of the remainder—

(A) 75 per centum shall be distributed on the basis of—

(i) the relative enrollment of full-time students for such year, and

(ii) the relative increase in enrollment of such students for such year over the average enrollment of such school for the five school years preceding the year for which the application is made;

with the amount per full-time student so computed that a school receives twice as much for each such student in the increase as for other full-time students, and

(B) 25 per centum shall be distributed on the basis of the relative number of graduates for such year.

In computing the increase under clause (a)(ii) of the preceding sentence for any school, there shall be excluded a number equal to the increase required by subsection (b)(1) of this section (except in the case of a school to which the third sentence of such subsection applies).

(2) For the fiscal years ending June 30, 1970, and June 30, 1971, only, the sum computed under paragraph (1) for any school which is less than the amount such school received under this section for the fiscal year ending June 30, 1969, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the sums computed under such paragraph (1) for the remaining schools, but with such adjustments as may be necessary to prevent the sums computed for any such remaining schools from being reduced to less than the amount it received for such fiscal year ending June 30, 1969, under this section.

(b) Enrollment increase requirement; waiver; limitation; exceptions.

(1) The Secretary shall not make a grant under this section to any school unless the application for

such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the first year enrollment of full-time students in such school will exceed the average of the first-year enrollments of such students in such school for the two school years having the highest such enrollment during the five school years during the period of July 1, 1963, through June 30, 1968, by at least 2½ per centum of such average first-year enrollments, or by five students, whichever is greater. The requirements of this paragraph shall be in addition to the requirements of section 293a (c)(2)(D) of this title, where applicable. The Secretary is authorized to waive (in whole or in part) the provisions of this paragraph if he determines, after consultation with the National Advisory Council on Health Professions Educational Assistance, that the required increase in first-year enrollment of full-time students in a school cannot, because of limitations of physical facilities available to the school for training, be accomplished without lowering the quality of training provided therein.

(2) Notwithstanding the preceding provisions of this section, no grant under this section to any school for any fiscal year may exceed the total of the funds from non-Federal sources expended (excluding expenditures of nonrecurring nature) by the school during the preceding year for teaching purposes (as determined in accordance with criteria prescribed by the Secretary), except that this paragraph shall not apply in the case of a school which has for such year a particular year-class which it did not have for the preceding year or in the case of Howard University.

(c) Determination of number of students enrolled; "full-time students" defined.

(1) For purposes of this part and part F of this subchapter regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, as the case may be, on the basis of estimates, or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or were graduates, in an earlier year, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determinations when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part F of this subchapter, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry, or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy, or doctor of pharmacy, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree.

(d) Full time students in new schools.

In the case of a new school of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, or podiatry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subparagraph (a)(1)(A) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made. (July 1, 1944, ch. 373, title VII, § 771, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1052, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(a), 82 Stat. 775; Nov. 2, 1970, Pub. L. 91-519, title I, § 101(a), 84 Stat. 1343.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91-519 added subsec. (d).

1968—Subsec. (a). Pub. L. 90-490 made schools of pharmacy and veterinary medicine eligible for grants and substituted provisions for distribution, computation, increase, and adjustment of institutional grants for fiscal years ending June 30, 1970, and 1971, for provisions for basic improvement grants arrived at for fiscal year ending June 30, 1966, by including payment of $12,500 plus product obtained by multiplying $250 by number of full-time students, and for fiscal years beginning July 1, 1966, and ending June 30, 1969, by including payment of $25,000 plus product obtained by multiplying $500 by number of full-time students.

Subsec. (b). Pub. L. 90-490 designated existing provisions as par. (1), substituted therein "the average of the first-year enrollments of such students in such school for the two school years having the highest such enrollment during the five school years during the period of July 1, 1963, through June 30, 1968, by at least 2½ per centum of such first-year enrollments" and "National Advisory Council on Health Professions Educational Assistance" for "the highest first-year enrollment of such students in such school for any of the five school years during the period July 1, 1960, through July 1, 1965, by at least 2½ per centum of such highest first-year enrollment" and "National Advisory Council on Medical, Dental, and Optometric, and Podiatric Education", respectively, and added par. (2).

Subsec. (c). Pub. L. 90-490 designated existing provisions as par. (1), required regulations thereunder to include provisions for determination of number of graduates on basis of number of graduates in an earlier year, redesignated former subsec. (d) as par. (2) and included as "full-time students" candidates for a degree of bachelor of science in pharmacy or doctor of pharmacy, and doctor of veterinary medicine or an equivalent degree.

Subsec. (d). Pub. L. 90-490 redesignated provisions of former subsec. (d) as subsec. (c)(2).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 101(b) of Pub. L. 91-519 provided that: "The amendment made by subsection (a) of this section [enacting subsec. (d) of this section] shall be effective only with respect to sums available for grants under section 771 of the Public Health Service Act [this section] from appropriations under section 770 of such Act [section 295f of this title] for the fiscal years ending after June 30, 1970."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 111(d) of Pub. L. 90-490, set out as a note under section 295f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293a, 293d, 293f, 295f-2, 295f-3 of this title.

§ 295f-2. Special project grants; determination of need for emergency financial assistance; report to Congress by June 30, 1971.

(a) Grants may be made, from sums available therefore from appropriations under section 295f of

this title for the fiscal year ending June 30, 1970, and for the next fiscal year, to assist schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and veterinary medicine in meeting the cost of special projects to plan, develop, or establish new programs or modifications of existing programs of education in such health professions or to effect significant improvements in curriculums of any such schools or for research in the various fields related to education in such health professions, or to develop training for new levels or types of health professions personnel, or to assist any such schools which are in serious financial straits to meet their costs of operation or which have special need for financial assistance to meet the accreditation requirements, or to assist any such schools to meet the costs of planning experimental teaching facilities or experimental design thereof, or which will otherwise strengthen, improve, or expand programs to train personnel in such health professions or help to increase the supply of adequately trained personnel in such health professions needed to meet the health needs of the Nation. Sums appropriated under section 295f of this title for the fiscal year ending June 30, 1971, for grants under this section to assist any such schools which are in serious financial straits to meet their costs of operation shall remain available to make such grants until June 30, 1972.

(b) The Congress finds and declares that the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools which provide the highest quality of teaching, medical and dental research, and delivery of health care for the Nation. The Secretary shall determine the need for emergency financial assistance to such medical and dental schools and shall report to the Congress on or before June 30, 1971, his determinations of such need and his recommendations for such administrative and legislative action as he determines is necessary to meet such needs. (July 1, 1944, ch. 373, title VII, § 772, as added Oct. 22, 1965, Pub. L. 89-20, § 2(a), 79 Stat. 1053, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(a), (e), 82 Stat. 776, 777; Nov. 2, 1970, Pub. L. 91-519, title I, § 102(a), 84 Stat. 1343.)

AMENDMENTS

1970—Pub. L. 91-519 redesignated existing provisions as subsec. (a) and in subsec. (a) as thus redesignated, extended until June 30, 1972, the period during which sums appropriated under section 295f of this title for grants under this section to assist schools in serious financial straits to meet their costs of operation in fiscal year ending June 30, 1971, would be available, and added subsec. (b).

1968—Pub. L. 90-490, § 111(a), substituted provisions for special project grants, including statement of objectives, for fiscal years ending June 30, 1970, and 1971, for provisions which authorized in former subsec. (a) additional grants by Surgeon General for special improvements from appropriations under former provisions of section 295f of this title available for fiscal years ending June 30, 1966, through 1969, prohibited such grants in former subsec. (b) unless utilized by recipient school to contribute toward maintenance of, or to provide for, accreditation, or to contribute toward maintenance of, or to provide for, specialized functions which the school serves, and limited such grants in former subsec. (c) to $100,000, $200,000, $300,000, and $400,000 for fiscal years ending June 30, 1966, through 1969, respectively.

Subsec. (b). Pub. L. 90-490, § 111(e), prohibited any special improvement grant under this section unless utilized by the recipient school to plan for special projects for which grants are authorized under this section as amended by section 111(a) of Pub. L. 90-490.

Subsec. (c). Pub. L. 90-490, § 111(e), struck out limitation on amount of grants under this section to $100,000; $200,000; $300,000; and $400,000 for fiscal years ending June 30, 1966, 1967, 1968, and 1969, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 102(b) of Pub. L. 91-519 provided that: "The amendment made by paragraph (1) of subsection (a) of this section [amending redesignated subsec. (a) of this section] shall apply only with respect to appropriations under section 770 of the Public Health Service Act [section 295f of this title] made after the date of the enactment of this Act [November 2, 1970]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of this section by section 111(a) of Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 111(d) of Pub. L. 90-490, set out as a note under section 295f of this title.

Amendment of subsec. (b) and deletion of subsec. (c) of this section by section 111(e) of Pub. L. 90-490 made effective only with respect to appropriations for fiscal year ending June 30, 1969, under provisions of such section 111(e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 295f, 295f-3 of this title.

§ 295f-3. Applications.

(a) Filing dates.

The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under section 295f-1 or 295f-2 of this title for any fiscal year must be filed.

(b) Eligibility.

To be eligible for a grant under this part, the applicant must (1) be a public or other nonprofit school of medicine, dentistry, osteopathy, optometry, pharmacy, veterinary medicine, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause (2) shall be deemed to be satisfied if, (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Surgeon General makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Surgeon General that there is reasonable ground to expect that, with the aid of a grant or grants under this part, having regard for the purposes of the grant sought, such school will meet such accreditation standards within a reasonable time.

(c) Consultation with Council.

The Surgeon General shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Health Professions Educational Assistance (established by section 295f-4 of this title).

(d) Approval by Surgeon General; contents.

A grant under this part may be made only if the application therefor—

(1) is approved by the Surgeon General upon his determination that the applicant meets the eligibility conditions set forth in subsection (b) of this section:

(2) contains or is supported by assurances satisfactory to the Surgeon General that the applicant will expend in carrying out its functions as a school of medicine, dentistry, osteopathy, optometry, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Surgeon General) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(3) contains such additional information as the Surgeon General may require to make the determinations required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

(4) provides for such fiscal-control and accounting procedures and reports, and access to the records of the applicant, as the Surgeon General may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

(e) Priority of projects; matters considered.

In determining priority of projects applications for which are filed under section 295f-2 of this title, the Secretary shall give consideration to—

(1) the extent to which the project will increase enrollment of full-time students receiving the training for which grants are authorized under this part;

(2) the relative need of the applicant for financial assistance to maintain or provide for accreditation or to avoid curtailing enrollment or reduction in the quality of training provided; and

(3) the extent to which the project may result in curriculum improvement or improved methods of training or will help to reduce the period of required training without adversely affecting the quality thereof.

(July 1, 1944, ch. 373, title VII, § 773, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat. 1053, and amended Aug. 16, 1968, Pub. L. 90-490, title I, § 111(b), 82 Stat. 776.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-490, § 111(b)(1), struck out "basic or special" preceding "grants".

Subsec. (b)(1). Pub. L. 90-490, § 111(b)(2), made schools of pharmacy and veterinary medicine eligible for grants.

Subsec. (c). Pub. L. 90-490, § 111(b)(3), substituted "National Advisory Council on Health Professions Educational Assistance" for "National Advisory Council on Medical, Dental, Optometric, and Podiatric Education".

Subsec. (d)(2). Pub. L. 90-490, § 111(b)(4), inserted "(excluding expenditures of a nonrecurring nature)" after "for such purpose".

Subsec. (e). Pub. L. 90-490, § 111(b)(5), substituted provisions enumerating as criteria for determining priority of projects by the Secretary (1) increased enrollment of students, (2) need for financial assistance to maintain or provide for accreditation or to avoid curtailing enrollment or reduction in quality of training, (3) and curriculum improvement, improved methods of training and reduced period of required training without affecting quality training for provisions under which Surgeon General considered need of applicant for a grant and effectiveness of applicant's plan in carrying out purposes of former provisions of section 295f-2(b) (1) and (2) of this title and in contributing to equitable geographical distribution of schools offering quality training of physicians, dentists, optometrists, and podiatrists.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 111(d) of Pub. L. 90-490, set out as a note under section 295f of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 295g of this title.

§ 295f-4. National Advisory Council on Health Professions Educational Assistance.

(a) Establishment; composition; selection of members.

There is hereby established in the Public Health Service a National Advisory Council on Health Professions Educational Assistance consisting of the Surgeon General, who shall be Chairman, and fourteen members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare, and such appointments may be made for specified staggered terms. The appointed members of the Council shall be selected from among leading authorities in the fields of medical, dental, optometric, podiatric, pharmaceutical, and veterinary education, respectively, except that not less than three of such members shall be selected from the general public.

(b) Functions.

The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this part and section 295g of this title, and in the review of applications under this part.

(c) Authorization to use services of members for periods in addition to conference periods.

The Surgeon General is authorized to use the services of any member or members of the Council in connection with matters related to the administration of this part or section 295g of this title, for such periods, in addition to conference periods, as he may determine. (July 1, 1944, ch. 373, title VII, § 774, as added Oct. 22, 1965, Pub. L. 89-290, § 2(a), 79 Stat.

1054, and amended Aug. 16, 1968, Pub. L. 90–490, title I, § 111(c) (1), (2), 82 Stat. 777; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (d). Pub. L. 91–515 struck out subsec. (d) which related to the payment of compensation and travel expenses of appointed members of the Council.

1968—Subsec. (a). Pub. L. 90–490, § 111(c) (1), (2), authorized appointment of members from authorities in fields of pharmaceutical and veterinary education; increased membership of Council from 12 to 14, and renamed as the "National Advisory Council on Health Professions Educational Assistance" former "National Advisory Council on Medical, Dental, Optometric, and Podiatric Education", respectively.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 111(d) of Pub. L. 90–490, set out as a note under section 295f of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 295f–3 of this title.

PART F.—SCHOLARSHIP GRANTS TO SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, OPTOMETRY, PODIATRY, PHARMACY, OR VETERINARY MEDICINE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 293d of this title.

§ 295g. Scholarship grants.

(a) Authorization.

The Surgeon General shall make grants as provided in this part to each public or other nonprofit school of medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, or veterinary medicine, which is accredited as provided in section 293a(b)(1)(B) or section 295f–3(b)(2) of this title for scholarships to be awarded annually by such school to students thereof.

(b) Amount of grant.

The amount of the grant under subsection (a) of this section to each such school shall be equal to $2,000 multiplied (1) for the fiscal year ending June 30, 1966, by one-tenth of the number of full-time first-year students of such school; (2) for the fiscal year ending June 30, 1967, by one-tenth of the number of full-time first-year students and second-year students of such school; (3) for the fiscal year ending June 30, 1968, by one-tenth of the number of full-time first-year students, second-year students, and third-year students of such school; and (4) for the fiscal year ending June 30, 1969, and each of the next two fiscal years by one-tenth of the number of full-time students of such school. For the fiscal year ending June 30, 1972, and for each of the two succeeding fiscal years, the grant under subsection (a) of this section shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending prior to July 1, 1971.

(c) Eligibility of scholarship recipients; maximum amount of scholarships.

(1) Scholarships may be awarded by schools from grants under subsection (a) of this section—

(A) only to individuals who have been accepted by them for enrollment as full-time first-year students, in the case of awards from such grants for the fiscal year ending June 30, 1966;

(B) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time second-year students, in the case of awards from such grants for the fiscal year ending June 30, 1967;

(C) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time second-year or third-year students, in the case of awards from such grants for the fiscal year ending June 30, 1968;

(D) only to individuals who have been so accepted, and individuals enrolled and in good standing as full-time students, in the case of awards from such grants for the fiscal year ending June 30, 1969 and each of the next two fiscal years; and

(E) only to individuals enrolled and in good standing as full-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to July 1, 1971, in the case of awards from such grants for the fiscal year ending June 30, 1972, or the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) of this section for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $2,500 for any year, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Regulations; consultation with Council.

Grants under subsection (a) of this section shall be made in accordance with regulations prescribed by the Surgeon General after consultation with the National Advisory Council on Health Professions Educational Assistance.

(e) Manner of making grant payments.

Grants under subsection (a) of this section may be paid in advance or by way of reimbursement, and at such intervals as the Surgeon General may find necessary; and with appropriate adjustments on account of overpayments or underpayments previously made. (July 1, 1944, ch. 373, title VII, § 780, as added Oct. 22, 1965, Pub. L. 89–290, § 2(a), 79 Stat. 1055, and amended Aug. 16, 1968, Pub. L. 90–490, title I, §§ 111(c)(4), 122(a)—(c), 82 Stat. 777, 779.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490, § 122(a), authorized scholarship grants for schools of veterinary medicine.

Subsec. (b). Pub. L. 90–490, § 122(b), authorized the same amount available for fiscal year ending June 30, 1969, for grants for each of the next two fiscal years and necessary sums for fiscal year ending June 30, 1972, rather than 1970, and two succeeding fiscal years for scholarship awards to students initially receiving such awards out of grants made to the school for fiscal years ending prior to July 1, 1971, rather than 1969.

Subsec. (c)(1) (D), (E). Pub. L. 90–490, § 122(c)(1), made cl. (D) grant provisions applicable to two fiscal years following June 30, 1969, and substituted "1971" and "1972" for "1969" and "1970", respectively, in cl. E):

Subsec.(c)(2). Pub. L. 90–490, § 122(c)(2), substituted "of exceptional financial need who needs such financial assistance to" for "from low-income families who, without such financial assistance could not."

Subsec. (d). Pub. L. 90–490, § 111(c)(4), substituted "National Advisory Council on Health Professions Educational Assistance" for "National Advisory Council on Medical, Dental, Optometric, and Podiatric Education".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 122(e) of Pub. L. 90–490 provided that: "The amendment made by subsections (a), (b), (c)(1) [to subsecs (a), (b), (c)(1) (D), (E) of this section] and (d) [adding section 295g–1 of this title] shall apply with respect to appropriations for fiscal years ending [after] June 30, 1969. The amendments made by subsection (c)(2) [to subsec. (c)(2) of this section] shall apply with respect to scholarships from appropriations for fiscal years ending after June 30, 1969."

Amendment of subsec. (g) by Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 111(d) of Pub. L. 90–490, set out as a note under section 295f of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 293d, 295f–1, 295f–4 of this title.

§ 295g–1. Transfer to student loan fund.

Not to exceed 20 per centum of the amount paid to a school from the appropriations for any fiscal year for scholarships under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under part C for (and to be regarded as) Federal capital contributions, to be used for the same purpose as such sums. (July 1, 1944, ch. 373, title VII, § 781, as added Aug. 16, 1968, Pub. L. 90–490, title I, § 122(d), 82 Stat. 779.)

EFFECTIVE DATE

Section applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 122(e) of Pub. L. 90–490, set out as a note under section 295g of this title.

PART G.—TRAINING IN THE ALLIED HEALTH PROFESSIONS

§ 295h. Grants for construction of teaching facilities for allied health professions personnel.

(a) Authorization of appropriations.

(1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions, or replacement or rehabilitation of existing facilities for such centers, $3,000,000 for the fiscal year ending June 30, 1967; $9,000,000 for the fiscal year ending June 30, 1968; $13,500,000 for the fiscal year ending June 30, 1969; $10,000,000 for the fiscal year ending June 30, 1970; $20,000,000 for the fiscal year ending June 30, 1971; $30,000,000 for the fiscal year ending June 30, 1972; and $40,000,000 for the fiscal year ending June 30, 1973.

(2) Sums appropriated pursuant to paragraph (1) for a fiscal year shall remain available for grants under this section until the close of the next fiscal year.

(b) Approval of applications for construction grants.

(1) No application for a grant under this section may be approved unless it is submitted to the Surgeon General prior to July 1, 1972. The Surgeon General may from time to time set dates (not earlier than the fiscal year preceding the year for which a grant is sought) by which applications for grants under this section for any fiscal year must be filed.

(2) A grant under this section may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(A) the applicant is a public or nonprofit private training center for allied health professions;

(B) the application contains or is supported by reasonable assurances that (i) for not less than ten years after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (iv) in the case of an application for a grant for construction to expand the training capacity of a training center for allied health professions, for the first full school year after the completion of the construction and for each of the nine years thereafter, the enrollment of full-time students at such center will exceed the highest enrollment of such students at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest enrollment, and the requirements of this clause (iv) shall be in addition to the requirements of section 295h–1(b)(2) of this title, where applicable;

(C) (i) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new training center for allied health professions, or construction which will expand the training capacity of an existing center, or (ii) in the case of an application for a grant for replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of an existing training center for allied health professions which are so obsolete as to require the center to curtail substantially either its enrollment or the quality of the training provided;

(D) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(E) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph (E), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

(3) Notwithstanding paragraph (2), in the case of an affiliated hospital, an application which is approved by the training center for allied health professions with which the hospital is affiliated and which otherwise complies with the requirements of this section, may be filed by any public or other nonprofit agency qualified to file an application under section 291e of this title.

(4) In the case of any application, whether filed by a training center or, in the case of an affiliated hospital, by any other public or other nonprofit agency, for a grant under this section to assist in the construction of a facility which is a hospital or part of a hospital, as defined in section 291o of this title, only that portion of the project which the Surgeon General determines to be reasonably attributable to the need of such training center for the project for teaching purposes or in order to expand its training capacities or in order to prevent curtailment of enrollment or quality of training, as the case may be, shall be regarded as the project with respect to which payments may be made under this section.

(5) In considering applications for grants, the Surgeon General shall take into account—

(A) the extent to which the project for which the grant is sought will aid in increasing the number of training centers for allied health professions providing training in three or more of the curriculums which are specified in or pursuant to paragraph (1)(A) of section 295h–4 of this title, and are related to each other to the extent prescribed in regulations;

(B)(i) in the case of a project for a new training center for allied health professions or for expansion of the facilities of an existing center, the relative effectiveness of the proposed facilities in expanding the capacity for the training of students in the allied health professions involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of allied health professions personnel of the kinds to be trained by such center, and available resources in various areas of the Nation for training such personnel); or

(ii) in the case of a project for replacement or rehabilitation of existing facilities of a training center for allied health professions, the relative need for such replacement or rehabilitation to prevent curtailment of the center's enrollment or deterioration of the quality of the training provided by the center, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the allied health professions involved (giving consideration to the factors mentioned above in subparagraph (i)); and

(C) in the case of an applicant in a State which has in existence a State or local area agency involved in plannnig for facilities for the training of allied health professions personnel, or which participates in a regional or other interstate agency involved in planning for such facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

(c) Amount of construction grants; payments.

(1) The amount of any grant for a construction project under this section shall be such amount as the Surgeon General determines to be appropriate; except that (A) in the case of a grant for a project for a new training center for allied health professions, and in the case of a grant for a project for new facilities for an existing center where such facilities are of particular importance in providing a major expansion of the training capacity of such center, as determined in accordance with regulations, such amount may not exceed 66⅔ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(2) Upon approval of any application for a grant under this section, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under paragraph (1); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this subsection may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(3) In determining the amount of any grant under this section, there shall be excluded from the cost of construction an amount equal to the sum of (A) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by the grant under this section, and (B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) Recapture of payments.

If, within ten years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private training center for allied health professions, or

(2) the facility shall cease to be used for the training purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(3) the facility is used for sectarian instruction or as a place for religious worship.

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility. (July 1, 1944, ch. 373, title VII, § 791, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1222, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(1), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91-519, title II, § 201, 84 Stat. 1344.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (b)(2)(E), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(2)(E), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-519, § 201(a), authorized appropriations of $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, for grants to assist in the construction of new facilities for training centers for allied health professions, and replacement or rehabilitation of existing facilities for such centers.

Subsec. (b)(1). Pub. L. 91-519, § 201(b), substituted "July 1, 1972" for "July 1, 1969".

1968—Subsec. (a)(1). Pub. L. 90-490, § 301(a)(1)(A), authorized appropriations of $10,000,000 for fiscal year ending June 30, 1970.

Subsec. (b)(1). Pub. L. 90-490, § 301(a)(1)(B), substituted "1969" for "1968".

SHORT TITLE

Section 1 of Pub. L. 89-751 provided: "That this Act [enacting sections 295h to 295h-5 and 298c to 298c-8 of this title, amending sections 293e, 294a-294d, 296, 297c-297f and 298 of this title, and section 1717 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section and under sections 294, 294d, 297c and 297f of this title] may be cited as the 'Allied Health Professions Personnel Training Act of 1966'."

APPLICABILITY OF 1966 REORG. PLAN NO. 3

Section 9 of Pub. L. 89-751 provided that: "The amendments made by this Act [enacting sections 295h to 295h-5 and 298c to 298c-8 of this title, amending sections 293e, 294a-294d, 296, 297c-297f and 298 of this title, and section 1717 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section and under sections 294, 294d, 297c and 297f of this title] shall be subject to the provisions of Reorganization Plan Numbered 3 of 1966 [set out as a note under section 202 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295-1, 295-4 of this title.

§ 295h-1. Grants to improve the quality of training centers for allied health professions.

(a) Basic improvement grants.

(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, for basic improvement grants under this subsection.

(2) Subject to the provisions of paragraph (3), the Surgeon General may, for each fiscal year in the period beginning July 1, 1966, and ending June 30, 1973, make to each training center for allied health professions whose application for a basic improvement grant has been approved by him a grant equal to the product obtained by multiplying $5,000 by the number of curriculums specified in or pursuant to paragraph (1)(A) of section 295h-4 of this title in which such center provides training during such year, plus the product obtained by multiplying $500 by the number of full-time students in such center receiving training in such curriculums.

(3) The Surgeon General shall not make a grant under this subsection to any center unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year during which such a grant is made the enrollment of full-time students at such center will exceed the highest enrollment of such students in such center for any of the five school years during the period of July 1, 1961, through July 1, 1966, by at least 2½ per centum of such highest enrollment, or by three students whichever is greater. The requirements of this paragraph shall be in addition to the requirements of section 295h(b)(2)(B)(iv) of this title, where applicable. The Surgeon General is authorized to waive (in whole or in part) the provisions of this paragraph if he determines that the required increase in enrollment of full-time students in a center cannot, because of limitations of physical facilities available to the center for training, be accomplished without lowering the quality of training for such students.

(b) Special improvement grants.

There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized functions which the center serves.

(c) Special projects for experimentation, demonstration, and institutional improvement.

(1) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for grants and contracts for special projects under this subsection.

(2) The Secretary is authorized, from sums available therefor from appropriations made under this subsection and subsection (b) of this section, to make grants to public or nonprofit private agencies, organizations, and institutions, and to enter into contracts with individuals, agencies, organizations, and institutions, for special projects related to training or retraining of allied health personnel, including—

(A) planning, establishing, demonstrating, or developing new programs, or modifying or expanding existing programs, including interdisciplinary training programs;

(B) developing, demonstrating, or establishing special programs, or adapting existing programs, to reach special groups such as returning veterans with experience in a health field, the economically or culturally deprived, or persons reentering any of the allied health fields;

(C) developing, demonstrating, or evaluating new or improved teaching methods or curriculums;

(D) developing, demonstrating, or establishing interrelationships among institutions which will facilitate the training, retraining, or utilization of allied health manpower;

(E) developing, demonstrating, or evaluating new types of health manpower;

(F) developing, demonstrating, or evaluating techniques for appropriate recognition (including equivalency and proficiency testing mechanisms) of previously acquired training or experience; and

(G) developing, demonstrating, or evaluating new or improved means of recruitment, retraining, or retention of allied health manpower.

(d) Application for grants.

(1) The Surgeon General may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this section for any fiscal year must be filed.

(2) A grant under this section may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(A) in the case of a basic or special improvement grant, it contains or is supported by assurances satisfactory to the Surgeon General that the applicant is a public or nonprofit private training center for allied health professions and will expend in carrying out its functions as such as a center, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Surgeon General) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(B) it contains such additional information as the Surgeon General may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this section; and

(C) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Surgeon General may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

(3) In considering applications for special improvement grants under subsection (b) of this section and for special project grants under subsection (c) of this section, the Surgeon General shall take into consideration the relative financial need of the applicant for such a grant and the relative effectiveness of the applicant's plan in carrying out the purposes of such grants, and in contributing to an equitable geographical distribution of training centers offering high-quality training of allied health professions personnel. (July 1, 1944, ch. 373, title VII, § 792, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1226, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(2), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91-519, title II, § 202 (a), (b), 84 Stat. 1344, 1345.)

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-519, § 202(a)(1), substituted "(a)(1)" for "(a)" preceding "There are authorized" at the beginning of the section and, in subsec. (a)(1) as so redesignated, substituted authorization of appropriations of $15,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, for basic improvement grants for authorization of appropriations for the years 1967 to 1970 for grants to assist training centers for allied health professions.

Subsec. (a)(2). Pub. L. 91-519, § 202(a)(2) (B), (C), (D), redesignated subsec. (b)(1) as subsec. (a)(2) and in subsec. (a)(2) as so redesignated, substituted paragraph (3) for paragraph (2) and June 30, 1973 for June 30, 1970.

Subsec. (a)(3). Pub. L. 91-519, § 202(a)(2)(E), redesignated subsec. (b)(2) as subsec. (a)(3).

Subsec. (b). Pub. L. 91-519, § 202(a)(3), added subsec. (b). Former subsec. (b) was redesignated (a)(2), (3).

Subsec. (c). Pub. L. 91-519, § 202(a)(3), substituted provisions covering special projects for experimentation, demonstration, and institutional improvement for provisions covering additional grants, up to a maximum of $100,000 per year, to approve training centers for allied health professions after a determination by the Surgeon General that such grants would be utilized to contribute toward provision, maintenance, or improvement of specialized function which the center serves and to provide training in curriculums under section 295h-4 of this title.

Subsec. (d)(1). Pub. L. 91-519, § 202(b)(A), substituted "grants" for "special improvement grants".

Subsec. (d)(2)(A). Pub. L. 91-519, § 202(b)(B), made the requirements of subpar. (A) applicable to basic or special improvement grants.

Subsec. (d)(3). Pub. L. 91-519, § 202(b)(C), added reference to special improvement grants under subsec. (b).

1968—Subsec. (a). Pub. L. 90-490, § 301(a)(2)(A), authorized appropriations of $20,000,000 for fiscal year ending June 30, 1970.

Subsec. (b)(1). Pub. L. 90-490, § 301(a)(2)(B), substituted "1970" for "1969".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 202(a) of Pub. L. 91-519 provided in part that the amendment of subsecs. (a), (b), and (c) of this section by section 202(a) of Pub. L. 91-519 are effective with respect to appropriations for the fiscal year beginning July 1, 1970.

Section 202(b) of Pub. L. 91-519 provided in part that the amendment of subsec. (d) of this section by section 202(b) of Pub. L. 91-519 are effective with respect to grants from appropriations for the fiscal year beginning July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295h of this title.

§ 295h-2. Traineeships for advanced training of allied health professions personnel.

(a) There are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967; $2,500,000 for the fiscal year ending June 30, 1968; $3,500,000 for the fiscal year ending June 30, 1969; $5,000,000 for the fiscal year ending June 30, 1970; $8,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; and $12,000,000 for the fiscal year ending June 30, 1973; to cover the cost of traineeships for the training of allied health professions personnel to teach health services technicians or in any of the allied health professions, to serve in any of such professions in administrative or supervisory capacities, or to serve in allied health professions specialties determined by the Surgeon General to require advanced training.

(b) Traineeships under this section shall be awarded by the Surgeon General through grants to public or nonprofit private agencies, organizations, and institutions.

(c) Payments to public or nonprofit private agencies, organizations, and institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees. (July 1, 1944, ch. 373, title VII, § 793, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1228, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(3), 82 Stat. 788; Nov. 2, 1970, Pub. L. 91-519, title II, § 203, 84 Stat. 1346.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-519, § 203(a), added authorization of appropriations of $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, and $12,000,000 for the fiscal year ending June 30, 1973.

Subsec. (b). Pub. L. 91-519, § 203(b)(1), substituted "agencies, organizations, and institutions" for "training centers for allied health professions".

Subsec. (c). Pub. L. 91-519, § 203(b)(2), substituted "public or nonprofit private agencies, organizations, and institutions" for "centers" in the first sentence.

1968—Subsec. (a). Pub. L. 90-490 authorized appropriations of $5,000,000 for fiscal year ending June 30, 1970.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 203(b) of Pub. L. 91-519, provided in part that the amendments to subsecs. (b) and (c) of this section by section 203(b) of Pub. L. 91-519 are effective with respect to grants from appropriations for the fiscal year beginning July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 295h-4 of this title.

§ 295h-3. Repealed. Pub. L. 91-519, title II, § 202(d), Nov. 2, 1970, 84 Stat. 1345.

Section, act July 1, 1944, ch. 373, title VII, § 794, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1228, and amended Aug. 16, 1968, Pub. L. 90-490, title III, § 301(a)(4), (b), 82 Stat. 788, authorized appropriations of $750,000 for the fiscal year ending June 30, 1967, $2,250,000 for the fiscal year ending June 30, 1968, $3,000,000 for the fiscal year ending June 30, 1969, and $4,500,000 for the fiscal year ending June 30, 1970, for grants to public or nonprofit private agencies, institutions, and organizations for projects to develop, demonstrate, or evaluate curriculums and methods for the training of health technologists.

EFFECTIVE DATE OF REPEAL

Section 202(d) of Pub. L. 91-519 provided in part that the repeal of this section was effective with respect to the fiscal year beginning July 1, 1970.

§ 295h-3a. Grants and contracts to encourage full utilization of educational talent for allied health professions.

(a) To assist in meeting the need for additional trained personnel in the allied health professions, the Secretary is authorized to make grants to State or local educational agencies or other public or nonprofit private agencies, institutions, and organizations, or enter into contracts without regard to section 5 of Title 41, for the purpose of—

(1) identifying individuals of financial, educational, or cultural need with a potential for education or training in the allied health professions, including returning veterans of the Armed Forces of the United States with training or experience in the health field, and encouraging and assisting them, whenever appropriate, to (A) complete secondary school, (B) undertake such postsecondary training as may be required to qualify them for training in the allied health professions, and (C) undertake post-secondary educational training in the allied health professions, or

(2) publicizing existing sources of financial aid available to persons undertaking training or education in the allied health professions.

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; and $1,250,000 for the fiscal year ending June 3, 1973. (July 1, 1944, ch. 373, title VII, § 794A, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1346.)

SHORT TITLE

Section 1 of Pub. L. 91-519 provided that 'This Act [enacting this section and sections 295h-3b to 295h-3d, 295h-8 and 295h-9 of this title, amending sections 295f-1, 295f-2, 295h to 295h-2, 295h-4 and 295h-7 of this title, repealing section 295h-3 of this title and enacting provisions set out as notes under sections 295f-1, 295-f2, and 295h-4 of this title] may be cited as the 'Health Training Improvement Act of 1970'."

§ 295h-3b. Scholarship grants.

(a) Public or private agencies, institutions, and organizations.

The Secretary is authorized to make (in accordance with such regulations as he may prescribe) grants to public or nonprofit private agencies, institutions, and organizations with an established program for training or retraining of personnel in the allied health professions or occupations specified by the Secretary for (1) scholarships to be awarded by such agency, institution, or organization to students thereof, and (2) scholarships in retaining programs of such agency, institution, or organization to be awarded to allied health professions personnel in occupations for which such agency, institution, or organization determines that there is a need for the development of, or the expansion of, training.

(b) Financial need.

Scholarships awarded by any agency, institution, or organization from grants under subsection (a)

of this section shall be awarded for any year only to individuals of exceptional financial need who require such assistance for such year in order to pursue a course of study offered by such agency, institution, or organization.

(c) Method of payment of grant.

Grants under subsection (a) of this section may be paid in advance or by way of reimbursement and at such intervals as the Secretary may deem appropriate and with appropriate adjustments on account of overpayments or underpayments previously made.

(d) Maximum scholarship to an individual.

Any scholarship awarded from grants under subsection (a) of this section to any individual for any year shall cover such portion of the individual's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization awarding the scholarship may determine to be needed by such individual for such year on the basis of his requirements and financial resources; except that the amount of any such scholarship shall not exceed $2,000, plus $600 for each dependent (not in excess of three) in the case of any individual who is awarded such a scholarship.

(e) Approval by Secretary; contents.

The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practicable, increase the level of non-Federal funds, which would in the absence of such grant, be made available for the purpose for which such grant is requested.

(f) Authorization of appropriation.

For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1971; $5,000,000 for the fiscal year ending June 30, 1972; and $6,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title VII, § 794B, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1346.)

§ 295h-3c. Work-study programs.

(a) Agreements with public or nonprofit private agencies, institutions, and organizations.

The Secretary is authorized to enter into agreements with public or nonprofit private agencies, institutions, and organizations with established programs for the training or retraining of personnel in the allied health professions specified by the Secretary under which the Secretary will make grants to such agencies, institutions, and organizations to assist them in the operation of work-study programs for individuals undergoing training or retraining provided by such programs.

(b) Contents of agreements.

Any agreement entered into pursuant to this section with a public or nonprofit private agency, institution, or organization shall—

(1) provide that such agency, institution, or organization, will operate a work-study program for the part-time employment of its students or trainees either (A) in work for such agency, institution, or organization or (B) pursuant to arrangements between such agency, institution, or organization and another public or private nonprofit agency, institution, or organization, in work which is in the public interest for such other agency, institution, or organization;

(2) provide that any such work-study program shall be operated in such manner that its operation will not result in the displacement of employed workers or impair existing contracts for employment;

(3) provide that any such work-study program will provide conditions of employment, for the students or trainees participating therein, which are appropriate and reasonable in light of such factors as type of work performed, prevailing wages in the area for similar work, and proficiency of the individual in the performance of the work involved;

(4) provide that no Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used for the construction, operation, or maintenance of any facility or part thereof which is used or is to be used for sectarian instruction or as a place for religious worship;

(5) provide that Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used only to make payments to its students or trainees performing work in the work-study program operated by such agency, institution, or organization; except that such agency, institution, or organization may use a portion of such funds to meet administrative expenses connected with the operation of such program, but the portion which may be so used shall not exceed 5 per centum of that part of such funds which is used for the purpose of making payments, to such students or trainees, for work performed for a public or private nonprofit agency, institution, or organization other than the agency, institution or organization receiving such Federal funds pursuant to such agreement;

(6) provide that such agency, institution, or organization, in selecting students or trainees for employment in such work-study program, will give preference to individuals from low-income families, and that no individual will be selected for employment in such program unless he (A) is in need of the earnings from such employment in order to pursue a course of study (whether on a full-time or part-time basis) for training or retraining of personnel in the allied health professions provided by such agency, institution, or organization, (B) is capable, in the opinion of such agency, institution, or organization, of maintaining good standing in such course of study while employed under such work-study program, and (C) in the case of any individual who at the time he applies for such employment is a new student or trainee, has been accepted for enrollment in such course of study on a full-time basis or part-time and, in the case of any other individual, is enrolled in such course of study on such a basis and is maintaining good standing in such course of study;

(7) provide that such agency, institution, or organization shall, in the operation of such work-study program, provide all individuals desiring

employment therein an opportunity to make application for such employment and that, to the extent that necessary funds are available, all eligible applicants will be employed in such program; and

(8) include such other provisions as the Secretary may deem necessary or appropriate to carry out the purposes of this section.

(c) Approval by Secretary.

The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

(d) Funds; limitation.

(1) Funds provided through any grant made under this section shall not be used to pay more than—

(A) 90 per centum, in the case of the period commencing on the date of the enactment of this section and ending with the close of the third June 30th thereafter,

(B) 85 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (A),

(C) 80 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (B), nor

(D) 75 per centum, in the case of any period after the period referred to in clause (C),

of the costs attributable to the payment of compensation to students or trainees for employment in the work-study program with respect to which such grant is made.

(2)(A) In determining (for purposes of paragraph (1)) the amounts attributable to the payment of compensation to students or trainees for employment in any work-study program, there shall be disregarded any Federal funds (other than such funds derived from a grant under this section) used for the payment of such compensation.

(B) In determining (for purposes of paragraph (1)) the total amounts expended for the payment of compensation to students or trainees for employment in any work-study program operated by any agency, institution, or organization receiving a grant under this section, there shall be included the reasonable value of compensation provided by such agency, institution, or organization to such students or trainees in the form of services and supplies (including tuition, board, and books).

(e) Authorization of appropriation.

For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $6,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title VII, § 794C, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1347.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d)(1)(A), is the date of enactment of Pub. L. 91-519, which was approved on Nov. 2, 1970.

§ 295h-3d. Loans for students of the allied health professions.

(a) Agreements with public or private nonprofit agency, institution, or organizations; student loan fund.

(1) The Secretary is authorized (in accordance with such regulation as he may prescribe) to enter into an agreement for the establishment and operation of a student loan fund in accordance with this section with any public or private nonprofit agency, institution, or organization which has an established program for the training or retraining of personnel in the allied health professions specified by the Secretary.

(2) Each agreement entered into under this subsection shall—

(A) provide for establishment of a student loan fund by such agency, institution, or organization for students or trainees enrolled in such program;

(B) provide for deposit in the fund of (i) the Federal capital contributions paid under this section to the agency, institution, or organization by the Secretary, (ii) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (iii) collections of principal and interest on loans made from the fund, (iv) collections pursuant to subsection (b)(6) of this section, and (v) any other earnings of the fund;

(C) provide that the fund shall be used only for loans to students or trainees enrolled in such program of the agency, institution, or organization in accordance with the agreement and for costs of collection of such loans and interest thereon;

(D) provide that loans may be made from such fund to students pursuing a course of study (whether full time or part time) in such program of such agency, institution, or organization and that while the agreement remains in effect no such student who is attending such program of such agency, institution, or organization shall receive a loan from a loan fund established under section 424 of Title 20 or pursuant to part B of the title IV of the Higher Education Act of 1965; and

(E) contain such other provisions as are necessary to protect the financial interests of the United States.

(b) Loan provisions; maximum amount; terms and conditions; repayment in periodic installments; commencement and duration of period; exclusions from period; cancellation of part of loan and interest thereon; cancellation of loan upon death; interest; security or endorsement; minor borrowers; penalty for late payment; minimum monthly repayment.

(1) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by agencies, institutions or organizations from loan funds established pursuant to agreements under this section may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 in the case of any student.

(2) Loans from any such student loan fund by any agency, institution or organization shall be made on such terms and conditions as it may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by

regulation or in the agreement with the agency, institution, or organization) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(A) such loan may be made only to a student who (i) is in need of the amount of the loan to pursue a part-time or full-time course of study at the agency, institution, or organization, and (ii) is capable, in the opinion of the agency, institution, or organization, of maintaining good standing in such course of study;

(B) such loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a part-time or full-time course of study in a program for the training or retraining of personnel in the allied health professions at an agency, institution, or organization approved by the Secretary, excluding from such ten-year period all (i) periods (up to three years) of (I) active duty performed by the borrower as a member of a uniformed service, or (II) service as a volunteer under the Peace Corps Act, and (ii) periods (up to five years) during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate or associate degree or the equivalent of either or to a higher degree in one of the allied health professions;

(C) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment in any of the allied health professions (including teaching any such profession or service as an administrator, supervisor, or specialist in any such profession) in any public or private nonprofit agency, institution, or organization, or in a rural area with an individual practitioner of medicine or dentistry if such service is approved by a local country health department or its equivalent at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service in such a profession in a public or other nonprofit hospital, other health service facility or health agency which is determined, in accordance with regulations of the Secretary, to have a substantial shortage of persons rendering service in such profession, and for purposes of any cancellation at such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled;

(D) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(E) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

(F) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required; and

(G) no note or other evidence of any such loan may be transferred or assigned by the agency, institution, or organization making the loan except that, if the borrower transfers to another agency, institution, or organization participating in the program under this section, such note or other evidence of a loan may be transferred to such other agency, institution, or organization.

(3) When all or any part of a loan, or interest, is canceled under this subsection, the Secretary shall pay to the agency, institution, or organization an amount equal to its proportionate share of the canceled portion, as determined by the Secretary.

(4) Any loan for any year by an agency, institution, or organization from a student loan fund established pursuant to an agreement under this section shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the agency, institution, or organization that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(5) An agreement under this section with any agency, institution, or organization shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the agency, institution, or organization in need thereof.

(6) Subject to regulations of the Secretary, an agency, institution, or organization may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this section for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under paragraph (2) (B) or cancellation of part or all of the loan under paragraph (2) (C), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The agency, institution, or organization may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the agency, institution, or organization not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(7) An agency, institution, or organization may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this section payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

(c) Authorization of appropriations.

There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $3,500,000 for the fiscal year ending June 30, 1971, $5,000,000 for the fiscal year ending June 30, 1972, and $10,000,000 for the fiscal year ending June 30, 1973, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1974, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan from any academic year ending before July 1, 1973, to continue or complete their education. Sums appropriated pursuant to this section for any fiscal year shall be available to the Secretary (1) for payments into the funds established by subsection (f)(4) of this section, and (2) in accordance with agreements under this section, for Federal capital contributions to schools with which such agreements have been made, to be used together with deposits in such funds pursuant to subsection (a)(2)(B)(ii) of this section, for establishment and maintenance of student loan funds.

(d) Allotment of funds; applications; payment.

(1) From the sums appropriated pursuant to subsection (c) of this section for any fiscal year, the Secretary shall allot to each agency, institution, or organization, which has an established program or programs for the training or retraining of personnel in the allied health professions approved by the Secretary, an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such program or programs in such agency, institution, or organization approved by the Secretary bears to the total number of persons enrolled on a full-time basis in such programs in all such agencies, institutions, or organizations in all the States. The number of persons enrolled, in such a program, on a full-time basis in such agencies, institutions, or organizations for purposes of the subsection shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. Funds available in any fiscal year for payment to agencies, institutions, or organizations under this section (whether as Federal capital contributions or as loans under subsection (f) of this section) which are in excess of the amount appropriated pursuant to subsection (c) of this section for that year shall be allotted among agencies, institutions, or organizations approved by the Secretary in such manner as the Secretary determines will best carry out the purpose of this section.

(2) The Secretary shall from time to time set dates by which agencies, institutions, or organizations must file applications for Federal capital contributions and for loans pursuant to subsection (f) of this section.

(3) The Federal capital contributions to a loan fund of an agency, institution, or organization approved by the Secretary under this section shall be paid from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in its loan fund.

(e) Capital distribution of balance of loan fund.

(1) After June 30, 1977, and not later than September 30, 1977, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to subsection (a)(2) of this section by each agency, institution or organization approved by the Secretary as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1977, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to subsection (a)(2)(B)(i) of this section bears to the total amount in such fund derived from such Federal capital contributions from funds deposited therein pursuant to subsection (a)(2)(B)(ii) of this section.

(B) The remainder of such balance shall be paid to the agency, institution, or organization approved by the Secretary.

(2) After September 30, 1977, each agency, institution or organization approved by the Secretary with which the Secretary has made an agreement under this section shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by it after June 30, 1977, in payment of principal and interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by subsection (f)(4) of this section) as was determined for the Secretary under paragraph (1).

(f) Loans from revolving fund; terms and conditions; limitation; expenses; allied professions training fund.

(1)(A) During the fiscal year ending June 30, 1971, and each of the next two fiscal years, the Secretary may make loans, from the revolving fund established by paragraph (4), to any public or private nonprofit agency, institution or organization approved by him, to provide all or part of the capital needed by any such agency, institution or organization for making loans to students under this subsection (other than capital needed to make the institutional contributions required of agencies, institutions or organizations by subsection (a)(2)(B)(ii)) of this section. Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in subsection (b) of this section. The requirement in subsection (a)(2)(B)(ii) of this section with respect to institutional contributions by agencies, institutions, or organizations to student loan funds shall not apply to loans made to agencies, institutions, or organizations under this subsection.

(B) A loan to an agency, institution, or organization approved by the Secretary under this subsection may be made upon such terms and conditions, consistent with applicable provisions of subsection (a) of this section, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this subsection will be achieved, these terms and conditions may include provisions making the obligation of the agency, institution, or organization to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to

students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (i) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this subsection, and (ii) probable losses.

(2) If an agency, institution, or organization approved by the Secretary borrows any sums under this subsection, the Secretary shall agree to pay to it (A) an amount equal to 90 per centum of the loss to it from defaults on student loans made from such sums, (B) the amount by which the interest payable by it on such sums exceeds the interest received by it on student loans made from such sums, (C) an amount equal to the amount of collection expenses authorized by subsection (a)(2)(C) of this section to be paid out of a student loan fund with respect to such sums, and (D) the amount of the principal which is canceled pursuant to subsection (b)(2) (C) or (D) of this section with respect to student loans made from such sums. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this paragraph.

(3) The total of the loans made in any fiscal year under this subsection shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $35,000,000 and the amount of Federal capital contributions paid under this section for that year.

(4)(A) There is hereby created within the Treasury an allied professions training fund (hereinafter in this paragraph referred to as the "fund") which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of this subsection. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 847, 848 and 849 of Title 31) for wholly owned Government corporations.

(B) The fund shall consist of appropriations paid into the fund pursuant to subsection (c) of this section, appropriations made pursuant to this paragraph, all amounts received by the Secretary as interest payments or repayments of principal on loans under this subsection, and any other moneys, property, or assets derived by him from his operations in connection with this subsection (other than paragraph (2)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interest or participations in assets, of the fund.

(C) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this subsection (other than paragraph (s))[1] shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 1717(c) of Title 12, of participation in obligations acquired under this subsection. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this subsection, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonable prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(g) Waiver; discretion of Secretary.

The Secretary may agree to modifications of agreements or loans made under this section, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this section. (July 1, 1944, ch. 373, title VII, § 794D, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 204, 84 Stat. 1349.)

REFERENCES IN TEXT

Part B of title IV of the Higher Education Act of 1965, referred to in subsec. (a)(2)(D), is set out as section 1071 et seq. of Title 20, Education.

The Peace Corps Act, referred to in subsec. (b)(2)(B) of this section, is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

§ 295h-4. Definitions.

For purposes of this part—

(1) The term "training center for allied health professions" means a junior college, college, or university—

(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree or to the equivalent of either or to a higher degree in the medical technology, optometric technology, dental hygiene, or any of such other of the allied health professions curriculums as are specified by regulations, or which, if in a junior college provides a program (i) leading to an associate or an equivalent degree, (ii) of education in optometric technology, dental hygiene, or curriculums as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Surgeon General,

(B) which provides training for not less than a total of twenty persons in such curriculums,

(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital,

(D) which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of education, or which is in a junior college which is accredited by the regional accrediting

[1] So in original

agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Surgeon General that reasonable progress is being made toward accreditation by such junior college, and

(E) in the case of an applicant for a grant under section 295h-2 of this title, which, if the college or university does not include a school of medicine, a school of osteopathy, school of optometry, or school of dentistry, as defined in paragraph (4) of section 293d of this title, as may be appropriate in the light of the training for which the grant is to be made, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a school,

except that an applicant for a grant for a construction project under section 295h of this title which does not at the time of application meet the requirement of clause (B) shall be deemed to meet such requirement if the Surgeon General finds there is reasonable assurance that the unit will meet the requirement of clause (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit, or, if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time.

(2) The term "full-time student" means a student pursuing a full-time course of study, in one of the curriculums specified in or pursuant to paragraph (1)(A) of this section, leading to a baccalaureate or associate degree or to the equivalent of either, or to a higher degree, in a training center for allied health professions; regulations of the Surgeon General shall include provisions relating to determination of the number of students enrolled at a training center on the basis of estimates, or on the basis of the number of students enrolled in a training center in an earlier year, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determinations when a training center was not in existence in an earlier year.

(3) The term "nonprofit" as applied to any training center for allied health professions or to any private agency, organization, or institution, means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.

(5) The term "affiliated hospital" means a hospital, as defined in section 291o of this title, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, one or more training centers for allied health professions. (July 1, 1944, ch. 373, title VII, § 795, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1228, and amended Dec. 5, 1967, Pub. L. 90-174, § 12(e), 81 Stat. 542; Nov. 2, 1970, Pub. L. 91-519, title II, § 202(c), 84 Stat. 1345.)

AMENDMENTS

1970—Par. (3). Pub. L. 91-519 extended the definition of the term "nonprofit" to private agencies, organizations and institutions.

1967—Par. (1)(A)(ii). Pub. L. 90-174 deleted "medical technology," preceding "optometric technology" and "any of such other of the allied health technical or professional" preceding "curriculums".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 202(c) of Pub. L. 91-519 provided in part that the amendment of this section is effective with respect to grants from appropriations for the fiscal year beginning July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 295h, 295h-1 of this title.

§ 295h-5. Records and audit.

(a) Each recipient of a grant under this part shall keep such records as the Surgeon General may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this part which are pertinent to any such grant. (July 1, 1944, ch. 373, title VII, § 796, as added Nov. 3, 1966, Pub. L. 89-751, § 2, 80 Stat. 1230.)

§ 295h-6. Repealed. Pub. L. 91-296, title IV § 401(b)(1)(E), June 30, 1970, 84 Stat. 352.

Section, act July 1, 1944, ch. 373, title VII, § 797, as added Aug. 16, 1968, Pub. L. 90-490, title III, § 301(c), 82 Stat. 788, authorized the use of up to one-half of one per centum of appropriated funds for evaluation of programs covered thereby. See section 229b of this title.

EFFECTIVE DATE OF REPEAL

Section 401(b)(1) of Pub. L. 91-296 provided in part that the amendment by section 401(b)(1)(E) of Pub. L. 91-296 [repealing this section] shall be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

§ 295h-7. Study of allied health programs.

(a) The Secretary shall conduct a study of the administration of—

(1) the provisions of this part,

(2) other provisions of this chapter which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions; and

(3) provisions of law which are administered by the Commissioner of Education and which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions;

with a view to determining the adequacy of such provisions and the programs established pursuant thereto to meet the needs of the Nation for allied health professions personnel. (July 1, 1944, ch. 373, title VII, § 798(a), as added Aug. 16, 1968, Pub. L. 90-490, title III, § 301(d), 82 Stat. 788, and amended Nov. 2, 1970, Pub. L. 91-519, title II, § 205, 84 Stat. 1354.)

AMENDMENTS

1970—Pub. L. 91-519 substituted provisions authorizing the Secretary to conduct a study of administration and adequacy of allied health programs, for provisions calling for a report by the Secretary prior to Apr. 1, 1969, on the administration of this part.

§ 295h-8. Advance funding.

Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this part may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated. (July 1, 1944, ch. 373, title VII, § 799, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 206, 84 Stat. 1354.)

§ 295h-9. Licensure report.

The Secretary shall prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel (including group practice of health personnel), together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation. Such report shall include specific recommendations by the Secretary for steps to be taken toward the solution of the problems so identified in such report. (July 1, 1944, ch. 373, title VII, § 799A, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 207, 84 Stat. 1355.)

SUBCHAPTER VI.—NURSE TRAINING

PART A.—GRANTS FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 298, 298b of this title.

§ 296. Authorization of appropriations for construction grants.

(a) There are authorized to be appropriated, for grants to assist in the construction of new facilities for collegiate, associate degree, or diploma schools of nursing, or replacement or rehabilitation of existing facilities for such schools, $25,000,000 for the fiscal year ending June 30, 1970, and $35,000,000 for the fiscal year ending June 30, 1971.

(b) Sums appropriated pursuant to subsection (a) of this section for a fiscal year shall remain available for obligation through the close of the next fiscal year. (July 1, 1944, ch. 373, title VIII, § 801 as added Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 908, and amended Nov. 3, 1966, Pub. L. 89-751, § 8(a), 80 Stat. 1236; Aug. 16, 1968, Pub. L. 90-490, title II, § 201(a), 82 Stat. 780.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-490 substituted authorization of appropriations of $25,000,000 and $35,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, for construction, replacement, or rehabilitation of facilities for collegiate, associate degree, or diploma schools of nursing for former provisions which authorized appropriations for collegiate schools of nursing in amounts of $5,000,000 and $10,000,000 for fiscal year ending June 30, 1966, and next three fiscal years and for associate degree or diploma schools in amounts of $10,000,000 and $15,000,000 also for such fiscal years and authorized such additional sum for such fiscal years as represented the excess of the total of sums authorized for previous years over the aggregate of appropriations thereunder for such years.

Subsec. (b). Pub. L. 90-490 substituted provisions that appropriations remain available for obligation rather than for grant and eliminated authorization for transfer of unused funds for collegiate schools of nursing and for associate degree or diploma schools when such funds can be used for the other of such purposes, now covered in the combined form in subsec. (a) of this section.

1966—Pub. L. 89-751 authorized the Surgeon General, notwithstanding any other provision of this title, whenever he determines that any part of any amount appropriated, for any fiscal year, to carry out the purposes of either paragraph (1) or paragraph (2) of subsection (a) of this section will not likely be utilized for such purposes during such year, to transfer such part to the amounts which are appropriated to carry out the purposes of the other such paragraph, if he has reason to believe that such part can be used for such purposes.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 205 of Pub. L. 90-490 provided that: "The amendments made by sections 201 [to this section and section 296a(a) of this title] and 204 [to section 298b(c) of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

SHORT TITLE

Section 1 of Pub. L. 88-581 provided that Pub. L. 88-581, which added this subchapter, and amended sections 291c, 291o, 293, 293a, 293e, and 293h of this title, may be cited as the "Nurse Training Act of 1964."

STUDY OF SCHOOL AID AND STUDENT AID PROGRAMS

Section 232 of Pub. L. 90-490 provided that: "The Secretary shall, in consultation with the Advisory Council established by section 841 [section 298 of this title], prepare, and submit to the President and the Congress prior to July 1, 1970, a report on the administration of title VIII of the Public Health Service Act [this subchapter], an appraisal of the programs under such title [this subchapter] in the light of their adequacy to meet the long-term needs for nurses, and his recommendations as a result thereof."

§ 296a. Approval of applications for construction grants; time of submission; determinations; considerations.

(a) No application for a grant for a construction project under this part may be approved unless it is submitted to the Surgeon General prior to July 1, 1970.

(b) A grant for a construction project under this part may be made only if the application therefor is approved by the Surgeon General upon his determination that—

(1) the applicant is a public or nonprofit private school of nursing providing an accredited program of nursing education;

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the

facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed and (D) in the case of an application for a grant for construction to expand the training capacity of a school of nursing, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the nine years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater;

(3) (A) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new school of nursing, or construction which will expand the training capacity of an existing school of nursing, or (B) in the case of an application for a grant for replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of an existing school of nursing which are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(5) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the factory will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

Before approving or disapproving an application for a construction project under this part, the Surgeon General shall secure the advice of the National Advisory Council on Nurse Training established by section 298 of this title (hereinafter in this part referred to as the "council").

(c) In considering applications for grants, the Council and the Surgeon General shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of an existing school, the relative effectiveness of the proposed facilities in expanding the capacity for the training of first-year students of nursing in the field involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of nurses of the kind to be trained by such school, and available resources in various areas of the Nation for training such nurses); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the field of nursing involved (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State or local area agency involved with planning for nurse training facilities, or which participates in a regional or other interstate agency involved with planning for nurse training facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

(July 1, 1944, ch. 373, title VIII, § 802, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 909, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 201(b), 82 Stat. 780.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (b), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490 substituted "July 1, 1970" for "July 1, 1968".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 205 of Pub. L. 90–490, set out as a note under section 296 of this title.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296e of this title.

§ 296b. Amount of construction grant; determination; reservation of funds; payments.

(a) The amount of any grant for a construction project under this part shall be such amount as the Surgeon General determines to be appropriate after obtaining the advice of the Council; except that (A) in the case of a grant for a project for a new school, and in the case of a grant for a project for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, such amount may not exceed 66⅔ per centum of the necessary cost of construction, as determined by the Surgeon General, of such project; and (B) in the case of any other grant, such amount may not, except where the Secretary determines that unusual circumstances make

a larger percentage (which may in no case exceed 66⅔ per centum) necessary in order to effectuate the purpose of this part, exceed 50 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(b) Upon approval of any application for a grant for a construction project under this part, the Surgeon General shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a) of this section; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Surgeon General may determine. The Surgeon General's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any such grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant. (July 1, 1944, ch. 373, title VIII, § 803, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 911, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 202, 82 Stat. 780.)

AMENDMENTS

1968—Subsec. (a)(B). Pub. L. 90–490 authorized construction grants exceeding 50 per centum, but not exceeding 66⅔ per centum, of construction costs where Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this part.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 296c. Recovery of payments.

If, within twenty years after completion of any construction for which funds have been paid under this part—

(a) the applicant or other owner of the facility shall cease to be a public or nonprofit private school, or

(b) the facility shall cease to be used for the training purposes for which it was constructed (unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so), or

(c) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility. (July 1, 1944, ch. 373, title VIII, § 804, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 911.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296f of this title.

§ 296d. Improvement in nurse training.

(a) Special project grants.

From the sums available therefor from appropriations under section 296g of this title for the fiscal year ending June 30, 1970, and the next fiscal year, grants may be made to assist any public or nonprofit private agency, organization, or institution to meet the cost of special projects to plan, develop, or establish new programs or modifications of existing programs of nursing education or to effect significant improvements in curriculums of schools of nursing or for research in the various fields of nursing education, or to assist schools of nursing which are in serious financial straits to meet their costs of operation or to assist schools of nursing which have special need for financial assistance to meet accreditation requirements, or to assist in otherwise strengthening, improving, or expanding programs of nursing education, or to assist any such agency, organization, or institution to meet the costs of other special projects which will help to increase the supply of adequately trained nursing personnel needed to meet the health needs of the Nation.

(b) Priority of projects.

In determining priority of projects for which applications are filed under subsection (a) of this section, the Secretary shall give priority in the following order:

(1) the relative need of the applicant (if a school of nursing) for financial assistance to continue in operation or avoid curtailing enrollment or reduction in the quality of training provided;

(2) the special need of the applicant for financial assistance in connection with its merger with a school of nursing;

(3) the relative need of the applicant for financial assistance to maintain or provide for accreditation as a school of nursing; and

(4) the extent to which the project will increase enrollment of full-time students receiving nursing training.

(July 1, 1944, ch. 373, title VIII, § 805, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 912, and amended Aug. 16, 1968, Pub. L. 90–490, title II, §§ 211, 215, 82 Stat. 781, 783.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490, § 211, substituted provisions which authorized grants to public or nonprofit private agency, organization, or institution for provisions which made public and nonprofit private diploma, collegiate and associate degree schools of nursing eligible for grants, reenacted provision to strengthen, improve, and expand programs of nursing education, and substituted provisions for special projects, including statement of additional objectives, for fiscal years ending June

30, 1970, and 1971, for provisions which authorized appropriations of $2,000,000, $3,000,000, and $4,000,000 for fiscal years ending June 3, 1965, 1966, and 1967–1969, respectively, and necessary sums for each of the four succeeding fiscal years to complete projects for which a grant was made from funds appropriated for fiscal year ending June 30, 1969, or any preceding year.

Subsec. (a). Pub. L. 90–490, § 215, made appropriations for improvement in nurse training also available for planning special projects for which grants are authorized under this section, as amended by section 211 of Pub. L. 90–490. See such amendment note under this section.

Subsec. (b). Pub. L. 90–490, § 211, substituted provisions enumerating criteria for determining priority of projects by the Secretary in the order of need for financial assistance to continue operation of school or avoid curtailing enrollment or reduction in quality of training, in connection with mergers, and to maintain or provide for accreditation, and increased enrollment of students for provisions under which Surgeon General considered contributions of the projects to general improvement in teaching and training of nurses, extent to which the projects attain a wider geographical distribution of high quality schools, and need in area in which school is situated and surrounding areas for nurses.

Subsec. (c). Pub. L. 90–490, § 211, eliminated provision which prohibited grants for projects for any period after grants have been made for such projects for five fiscal years.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 211 of Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90–490, set out as a note under section 296f of this title.

Amendment by section 215 of Pub. L. 90–490 effective only with respect to appropriations for fiscal year ending June 30, 1969, under provisions of such section 215.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296f, 296g, 298b of this title.

§ 296e. Institutional grants.

(a) Distribution; computations.

The sums available for grants under this section from appropriations under section 296g of this title for the fiscal year ending June 30, 1970, and the next fiscal year shall be distributed to the schools with approved applications as follows: Each school shall receive $15,000; and of the remainder—

(A) 75 per centum shall be distributed on the basis of—

(i) the relative enrollment of full-time students for such year, and

(ii) the relative increase in enrollment of such students for such year over the average enrollment of such school for the five school years preceding the year for which the application is made;

with the amount per full-time student so computed that a school receives twice as much for each such student in the increase as for other full-time students, and

(B) 25 per centum shall be distributed on the basis of the relative number of graduates for such year.

In computing the increase under clause (A)(ii) of the preceding sentence for any school, there shall be excluded a number equal to the increase required by subsection (b) of this section (except in the case of a school to which the third sentence of such subsection applies).

(b) Enrollment increase requirement; waiver.

The Secretary shall not make a grant under this section to any school from any appropriation for a fiscal year ending after June 30, 1970, unless the application for such grant contains or is supported by reasonable assurances that for the first school year beginning after the fiscal year for which such grant is made and each school year thereafter during which such a grant is made the first-year enrollment of full-time students in such school will exceed the average of the first-year enrollment of such students in such school for the two school years having the highest such enrollment during the five school years during the period of July 1, 1963, through June 30, 1968, by at least 2½ per centum of such average first-year enrollment, or by five students, whichever is greater. The requirements of this subsection shall be in addition to the requirements of section 296a (b)(2)(D) of this title, where applicable. The Secretary is authorized to waive (in whole or in part) the provisions of this subsection if he determines, after consultation with the National Advisory Council on Nurse Training, that the required increase in first-year enrollment of full-time students in a school cannot, because of limitations of physical facilities available to the school for training, be accomplished without lowering the quality of training provided therein.

(c) Determination of number of students enrolled; "full-time students" defined.

(1) For the purposes of this part and part D of this subchapter, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates from a school, as the case may be, on the basis of estimates, or on the basis of the number of students who were enrolled in a school, or in particular year-class in a school, or were graduates from a school in earlier years, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year as a school.

(2) For purposes of this part and part D of this subchapter, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study in an accredited program in a school of nursing. (July 1, 1944, ch. 373, title VIII, § 806, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 912, and amended Dec. 5, 1967, Pub. L. 90–174, § 12(a), 81 Stat. 541; Aug. 16, 1968, Pub. L. 90–490, title II, § 211, 82 Stat. 781.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490 substituted provisions for distribution and computation of institutional grants for fiscal years ending June 30, 1970, and 1971, for provisions authorizing appropriations of $4,000,000, $7,000,000, and $10,000,000 for fiscal years ending June 30, 1965, 1966, and 1967–1969, respectively, to defray portion of cost of training students of nursing in public and nonprofit private diploma schools of nursing.

Subsec. (b). Pub. L. 90–490 substituted enrollment increase requirement and waiver thereof for provisions for payments by Surgeon General to public or nonprofit private diploma schools of nursing for each fiscal year in five-year period beginning July 1, 1964, and ending June 30, 1969, an amount equal to product of $250 and sum of number of federally-sponsored students in such school during such year and the number by which the full-time enrollment in such school during such year exceeds the

average of full-time enrollments during fiscal years ending June 30, 1962, 1963, and 1964, except that no such school shall receive in any fiscal year an amount in excess of product of $100 and the full-time enrollment in such school during the year.

Subsec. (c). Pub. L. 90–490 substituted provisions for determination of number of students enrolled and defining "full-time students" for provisions which defined a "federally-sponsored student" and provided for determination of full-time enrollment and number of federally-sponsored students as of Feb. 15 of each fiscal year.

1967—Subsec. (c)(1). Pub. L. 90–174 defined "federally-sponsored student" to include a school of nursing student receiving a loan the source of which is the nurse training revolving fund or a nursing educational opportunity grant.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90–490, set out as a note under section 296f of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 12(f) of Pub. L. 90–174 provided that: "The amendment made by subsection (a) [to subsec. (c)(1) of this section] shall be effective as of November 3, 1966."

DEFINITION OF "SECRETARY"

Term "Secretary" used in subsec. (c)(1) of this section as meaning the Secretary of Health, Education, and Welfare, see section 15 of Pub. L. 90–174, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296f, 296g, 298b of this title.

§ 296f. Applications for improvement and institutional grants.

(a) Filing date.

The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications under section 296d or 296c of this title for any fiscal year must be filed.

(b) Consultation with Council.

The Secretary shall not approve or disapprove any application for a grant under this part except after consultation with the National Advisory Council on Nurse Training.

(c) Eligibility; contents.

A grant under section 296d or 296e of this title may be made only if the application therefor—

(1) is from a public or nonprofit private school of nursing, or, in the case of grants under section 296d of this title, a public or nonprofit private agency, organization, or institution;

(2) contains or is supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which are at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought;

(3) contains such additional information as the Secretary may require to make the determinations required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

(4) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assurance proper disbursement of and accounting for Federal funds paid to the applicant under this part.

(July 1, 1944, ch. 373, title VIII, § 807, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 212, 82 Stat. 782.)

EFFECTIVE DATE

Section 214 of Pub. L. 90–490 provided that: "The amendments made by the preceding provisions of this part [enacting sections 296f and 296g of this title and amending sections 296d, 296e, and 298b(f)(2) of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

§ 296g. Authorization of appropriations for improvement and institutional grants.

(a) There are authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1970, and $40,000,000 for the fiscal year ending June 30, 1971, for improvement grants under section 296d of this title and institutional grants under section 296e of this title.

(b) Of the sums appropriated under subsection (a) of this section $15,000,000 shall be available for each of the fiscal years ending June 30, 1970, and June 30, 1971, for grants under section 296d of this title. (July 1, 1944, ch. 373, title VIII, § 808, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 212, 82 Stat. 783.)

EFFECTIVE DATE

Section applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90–490, set out as a note under section 296f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296d, 296e of this title.

PART B.—ASSISTANCE TO NURSING STUDENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 298b of this title.

§ 297. Traineeships for advanced training of professionals.

(a) Authorization of appropriations.

There are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1965, $9,000,000 for the fiscal year ending June 30, 1966, $10,000,000 for the fiscal year ending June 30, 1967, $11,000,000 for the fiscal year ending June 30, 1968, $12,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, and $19,000,000, for the fiscal year ending June 30, 1971, to cover the cost of traineeships for the training of professional nurses to teach in the various fields of nurse training (including practical nurse training), to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties determined by the Surgeon General to required advanced training.

(b) Award through grants to public or non-profit private institutions.

Traineeships under this section shall be awarded by the Surgeon General through grants to public or nonprofit private institutions providing the training.

(c) Payments; limitations.

Payments to institutions under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Surgeon General finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees. (July 1, 1944, ch. 373, title VIII, § 821, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 913, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 221, 82 Stat. 783.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490 authorized appropriations of $15,000,000 and $19,000,000 for fiscal years ending June 30, 1970, and 1971, respectively.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 297a. Loan agreements; student loan fund; provisions of agreements.

(a) The Secretary of Health, Education, and Welfare is authorized to enter into an agreetment for the establishment and operation of a student loan fund in accordance with this part with any public or nonprofit private school of nursing which is located in a State.

(b) Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 297h of this title, of (A) the Federal capital contributions paid under this part to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 297b(f) of this title, and (E) any other earnings of the fund;

(3) provide that the fund except as provided in section 297h of this title, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such fund only to students pursuing a full-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing, and that while the agreement remains in effect no such student who has attended such school before July 1, 1971, shall receive a loan from a loan fund established under section 424 of Title 20, and

(5) contain such other provisions as are necessary to protest the financial interests of the United States.

(July 1, 1944, ch. 373, title VIII, § 822, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 913, and amended Aug. 16, 1968, Pub. L. 90–490, title II, § 222 (a), (c) (2), 82 Stat. 738, 784.)

AMENDMENTS

1968—Subsec. (b) (2). Pub. L. 90–490, § 222 (a) (1), (c) (2), inserted ", except as provided in section 297h of this title," after "fund" where first appearing and added cl. (D) and redesignated former cl. (D) as (E), respectively.

Subsec. (b) (3). Pub. L. 90–490, § 222 (a) (1), inserted ", except as provided in section 297h of this title" after "fund" where first appearing and authorized the cancellation of an additional 50 per centum of a nursery student loan.

Subsec. (b) (4). Pub. L. 90–490, § 222(a) (2), substituted "1971" for "1969".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (b) (2) by section 222(c) (2) of Pub. L. 90–490 applicable with respect to loans made after June 30, 1969, see section 222(i) of Pub. L. 90–490, set out as a note under section 297b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296e, 297c, 297e, 297f, 297h of this title.

§ 297b. Loan provisions.

(a) Maximum amount per individual per year; preference to first year students.

The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this part may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 for any student. In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after enactment of this subchapter.

(b) Terms and conditions.

Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Secretary of Health, Education, and Welfare may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of study;

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a full-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act, and (B)

periods (up to five years) during which the borrower is pursuing a full-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing;

(3) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private institution or agency, at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service as such a nurse in a public or other nonprofit hospital in any area which is determined, in accordance with regulations of the Secretary, to be an area which has a substantial shortage of such nurses at such hospitals, and for the purpose of any cancellation as such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

(5) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this part, such note or other evidence of a loan may be transferred to such other school.

(c) Cancellation.

Where all or any part of a loan, or interest, is canceled under this section, the Secretary of Health, Education, and Welfare shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Installments.

Any loan for any year by a school from a student loan fund established pursuant to an agreement under this part shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the school that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) Availability to eligible students in need.

An agreement under this part with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f) Penalty for late payment.

Subject to regulations of the Secretary, a school may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this part for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b)(2) of this section or cancellation of part or all of the loan under subsection (b)(3) of this section, for any failure to file timely and satisfactory evidence for such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) Minimum monthly repayment.

A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this part payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month. (July 1, 1944, ch. 373, title VIII, § 823, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 914, and amended Oct. 22, 1965, Pub. L. 89–290, § 4(g)(2), 79 Stat. 1058; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(b), (c)(1), 82 Stat. 783, 784.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (b)(2)(A)(ii), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490, § 222(b)(1), increased limitation on amount of annual loans per student from $1,000 to $1,500, required preferences in the granting of loans to licensed practical nurses, and limited the aggregate of loans for all years to any one student to $6,000.

Subsec. (b)(2). Pub. L. 90–490, § 222(b)(2), provided for commencement of repayment nine months, rather than one year, after student ceases to pursue full-time course of study, excluded from ten-year repayment period periods (up to three years) of active duty as member of a uniformed service or Peace Corps volunteer service and periods (up to five years) as undergraduate or graduate degree student in nursing, including advanced professional training in nursing, and struck out prohibition against accrual of interest on loans.

Subsec. (b)(3). Pub. L. 90–490, § 222(b)(3), authorized cancellation of an additional 50 per centum of a nursing student loan (plus interest) at rate of 15 per centum for each complete year of service in a public or other nonprofit hospital in an area with a substantial shortage of nurses.

Subsec. (b)(5). Pub. L. 90–490, § 222(b)(4), struck out provisions for an interest rate which is the greater of 3 per centum or the going Federal rate at time loan is made, defining going Federal rate, and making rate determined for first loan applicable to any subsequent loan.

Subsecs. (f), (g). Pub. L. 90–490, § 222(c)(1), added subsecs. (f) and (g).

1965—Subsec. (b)(5). Pub. L. 89–290 applied the rate of interest for the first loan obtained by a student from a loan fund established under this part to any subsequent loan to such student from such fund during his course of study.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 222(i) of Pub. L. 90–490 provided that: "The amendments made by subsection (b) (1) and (2) [to subsecs. (a) and (b)(2) of this section] shall apply with respect to all loans made after June 30, 1969, and with respect to loans made from a student loan fund established under an agreement pursuant to section 822 [section 297a of this title], before July 1, 1969, to the extent agreed to by the school which made the loans and the Secretary (but then only for years beginning after June 30, 1968). The amendments made by subsection (b)(4) [to subsec. (b)(5) of this section] and subsection (c) [adding subsecs. (f) and (g) to this section and amending section 297a(b)(2) of this title] shall apply with respect to loans made after June 30, 1969. The amendment made by subsection (h) [adding section 297h of this title] shall apply with respect to appropriations for fiscal years beginning after June 30, 1969. The amendment made by subsection (b)(3) [to subsec. (b)(3) of this section] shall apply with respect to service, specified in section 823(b)(3) of such Act [subsec. (b)(3) of this section] performed during academic years beginning after the enactment of this Act, whether the loan was made before or after such enactment [Aug. 16, 1968]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 297a, 297f of this title.

§ 297c. Authorization of appropriations for loans.

There are authorized to be appropriated to the Secretary of Health, Education, and Welfare for Federal capital contributions to student loan funds pursuant to section 297a(b)(2)(A) of this title $3,100,000 for the fiscal year ending June 30, 1965, $8,900,000 for the fiscal year ending June 30, 1966, $16,800,000 for the fiscal year ending June 30, 1967, $25,300,000 for the fiscal year ending June 30, 1968, $30,900,000 for the fiscal year ending June 30, 1969, $20,000,000 for the fiscal year ending June 30, 1970, and $21,000,000 for the fiscal year ending June 30, 1971, and such sums for the fiscal year ending June 30, 1972, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1971, to continue or complete their education. Sums appropriated pursuant to this section for the fiscal year ending June 30, 1967, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the fund established by section 297f(d) of this title, and (2) in accordance with agreements under this part, for Federal capital contributions to schools with which such agreements have been made, to be used, together with deposits in such funds pursuant to section 297a(b)(2)(B) of this title, for establishment and maintenance of student loan funds, and (3) for transfers pursuant to section 297h of this title. (July 1, 1944, ch. 373, title VIII, § 824, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 915, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(b), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(d), 82 Stat. 784.)

AMENDMENTS

1968—Pub. L. 90–490 authorized appropriations of $20,000,000 and $21,000,000 for fiscal years ending June 30, 1970, and 1971, respectively, and necessary sums for fiscal year ending June 31, 1972, rather than 1970, and two succeeding fiscal years for loans to students receiving loan for any academic year ending before July 1, 1971, rather than 1969; and made appropriations available for transfers pursuant to section 297h of this title, respectively.

1966—Pub. L. 89–751 authorized availability of appropriations for payments into the fund established by section 297f(d) of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 6(e)(1) of Pub. L. 89–751 provided that: "The amendments made by this section [to this section and sections 297d–297f of this title] shall be effective in the case of payments to student loan funds made after the enactment of this Act [Nov. 3, 1966], except in the case of payments pursuant to commitments (made prior to enactment of this Act [Nov. 3, 1966]) to make loans under section 827 of the Public Health Service Act [section 297f of this title] as in effect prior to the enactment of this Act [Nov. 3, 1966]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 297d, 297f of this title.

§ 297d. Allotments and payments of Federal capital contributions and loans to schools.

(a) From the sums appropriated pursuant to section 297c of the title for any fiscal year, the Secretary shall allot to each school an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such school bears to the total number of persons enrolled on a full-time basis in all schools of nursing in all the States. The number of persons enrolled on a full-time basis in schools of nursing for purposes of this section shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. For purposes of allotments under this section, a school of nursing also includes any school with which the Secretary has, prior to the time the allotment is made, entered into an agreement for establishment of a student loan fund under this part. Funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 297f of this title) which are in excess of the amount appropriated pursuant to section 297c of this title for that year shall be allotted among States and among schools within States in such manner as the Secretary determines will best carry out the purposes of this part.

(b)(1) The Secretary shall from time to time set dates by which schools of nursing in a State must file applications for Federal capital contributions, and for loans pursuant to section 297f of this title, from the allotment of such State under the first two sentences of subsection (a) of this section.

(2) If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State exceeds the amount of the allotment of such State for that fiscal year, the amounts to be paid to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amount of the allotment of such State as the number of students who will be enrolled full time in such school during such fiscal year bears to the

total number of students who will be enrolled full time in all such schools in such State during such year. Amounts remaining after allotment under the preceding sentence shall be redistributed in accordance with clause (B) of such sentence among schools which in their applications requested more than the amounts so paid to their loan funds, but with such adjustments as may be necessary to prevent the total paid to any such school's loan fund from exceeding the total so requested by it. If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State is less than the amount of the allotment of such State for that fiscal year, the Secretary may reallot the remaining amount from time to time, on such date or dates as he may fix, to other States in proportion to the original allotments to such States under subsection (a) of this section for such year. For the purpose of this section, the number of students who graduated from secondary schools in each State during a fiscal year and the number of students who will be enrolled full time in schools of nursing in each State shall be estimated by the Secretary of Health, Education, and Welfare on the basis of the best information available to him; and in making such estimates, the number of students enrolled full time in any collegiate school of nursing shall be deemed to be twice their actual number.

(c) The Federal capital contributions to a loan fund of a school under this part shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school. (July 1, 1944, ch. 373, title VII, § 825, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 915, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(c), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(e), 82 Stat. 785.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490 substituted a new formula for distribution of Federal funds among schools of nursing by providing for allotment of funds among the schools entirely on the basis of their relative enrollments for former provisions which allocated funds among the States, 50 per centum on the basis of relative number of high school graduates, and 50 per centum on the basis of relative number of students enrolled in schools of nursing, and provided for determination of number of persons enrolled in such schools for most recent year for which satisfactory data are available to the Secretary.

1966—Subsec. (a). Pub. L. 89–751, § 6(c)(1), authorized the allotment of appropriations for payment as Federal capital contributions or as loans to schools under section 297f of this title, and directed that funds available in any fiscal year for payment to schools under this part (whether as Federal capital contributions or as loans to schools under section 297f of this title) which are in excess of the amount appropriated pursuant to section 297c of this title for that year shall be allotted among States and among schools within States in such manner as the Secretary determines will best carry out the purposes of this part.

Subsec. (b)(1). Pub. L. 89–751, § 6(c)(2), substituted "schools of nursing in a State must file applications for Federal capital contributions, and for loans pursuant to section 297f of this title, from the allotment of such State under the first two sentences of subsection (a) of this section" for "schools of nursing with which he has in effect agreements under this part must file applications for Federal capital contributions to their loan funds pursuant to section 297a(b)(2)(A) of this title."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 297f of this title as in effect prior to Nov. 3, 1966, see section 6(e)(1) of Pub. L. 89–751, set out as a note under section 297c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 298b of this title.

§ 297e. Distribution of assets from loan funds.

(a) After June 30, 1974, and not later than September 30, 1974, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 297a of this title by each school as follows:

(1) The Secretary of Health, Education, and Welfare shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1974, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 297a(b)(2)(A) of this title bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 297a(b)(2)(A) of this title.

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1974, each school with which the Secretary has made an agreement under this part shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1974, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by section 297f(d) of this title) as was determined for the Secretary under subsection (a) of this section. (July 1, 1944, ch. 373, title VIII, § 826, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 916, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(d), 80 Stat. 1235; Aug. 16, 1968, Pub. L. 90–490, title II, § 222(f), 82 Stat. 785.)

AMENDMENTS

1968—Pub. L. 90–490 substituted "1974" for "1972" wherever appearing.

1966—Subsec. (a). Pub. L. 89–751, § 6(d)(1), (2), substituted "an agreement pursuant to section 297a(b) of this title" for "this part" in the opening provisions, and in par. (1) substituted "such balance" for "the balance."

Subsec. (b). Pub. L. 89–751, § 6(d)(3), inserted parenthetical phrase "(other than so much of such fund as relates to payments from the revolving fund established by section 297f(d) of this title)."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under section 297f of this title as in effect prior to Nov. 3, 1966, see section 6(e)(1) of Pub. L. 89–751, set out as a note under section 297c of this title.

§ 297f. Loans to schools of nursing to capitalize student loan funds.

(a) Fiscal years available; terms, conditions, and limitations; institutional contributions; interest.

(1) During the fiscal years ending June 30, 1967, and June 30, 1968, and each of the next three

fiscal years, the Secretary may make loans, from the revolving fund established by subsection (d) of this section, to any public or nonprofit private school of nursing which is located in a State, to provide all or part of the capital needed by any such school for making loans to students under this section (other than capital needed to make the institutional contributions required of schools by section 297a(b)(2)(B) of this title). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in section 297b of this title. The requirement in section 297a(b)(2)(B) of this title with respect to institutional contributions by schools to student loan funds shall not apply to loans made to schools under this section.

(2) A loan to a school under this section may be upon such terms and conditions, consistent with applicable provisions of section 297a of this title, as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this section will be achieved, these terms and conditions may include provisions making the school's obligation to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (A) the cost of the funds to the Treasury, as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this section, and (B) probable losses.

(b) Payments to schools to cover certain costs incurred in making student loans from borrowed funds; authorization of appropriations.

If a school of nursing borrows any sums under this section, the Secretary shall agree to pay to the school (1) an amount equal to 90 per centum of the loss to the school from defaults on student loans made from such sums, (2) the amount by which the interest payable by the school on such sums exceeds the interest received by it on student loans made from such sums, (3) an amount equal to the amount of collection expenses authorized by section 297a(b)(3) of this title to be paid out of a student loan fund with respect to such sums and (4) the amount of principal which is canceled pursuant to section 297b(b)(3) or (4) of this title with respect to student loans made from such sums. There are authorized to be appropriated without fiscal-year limitation such sums as may be necessary to carry out the purposes of this subsection.

(c) Limitation on loans.

The total of the loans made in any fiscal year under this section shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $35,000,000 and the amount of Federal capital contributions paid under this subchapter for that year.

(d) Nurse training revolving fund; authorization of appropriations.

(1) There is hereby created within the Treasury a nurse training fund (hereinafter in this section called "the fund") which shall be available to the Secretary without fiscal-year limitation as a revolving fund for the purposes of this section. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 847, 848, and 849 of Title 31) for wholly owned Government corporations.

(2) The fund shall consist of appropriations paid into the fund pursuant to section 297c of this title, appropriations made pursuant to this subsection, all amounts received by the Secretary as interest payments or repayments of principal on loans under this section, and any other moneys, property, or assets derived by him from his operations in connection with this section (other than subsection (b) of this section), including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund.

(3) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this section (other than subsection (b) of this section) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 1717(c) of Title 12, of participations in obligations acquired under this section. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this section, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(4) In addition to the sums authorized to be appropriated by section 297c of this title, there are authorized to be appropriated to the fund established by this subsection $2,000,000 for the fiscal year ending June 30, 1967. (July 1, 1944, ch. 373, title VIII, § 827, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 917, and amended Nov. 3, 1966, Pub. L. 89–751, § 6(a), 80 Stat. 1233; Aug. 16, 1968, Pub. L. 90–490. title II, § 222(g), 82 Stat. 785.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–490 made the loan provisions applicable during three fiscal years ending after June 30, 1968.

1966—Pub. L. 89–751 substituted provisions designated as subsecs. (a)–(d) authorizing loans to schools of nursing to capitalize student loan funds for former authorization of loans to schools, providing in subsec. (a) for application for loan, based on need, and interest rate, in subsec. (b) for authorization of appropriations, and in subsec. (c) for maturity period and maximum term.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–751 effective in the case of payments to student loan funds made after Nov. 3, 1966, except in the case of payments pursuant to commitments (made prior to Nov. 3, 1966) to make loans under this section as in effect prior to Nov. 3, 1966, see section 6(e)(1) of Pub. L. 89–751, set out as a note under section 297c of this title.

CONVERSION OF FEDERAL CAPITAL CONTRIBUTION TO A LOAN UNDER THIS SECTION

Section 6(e)(2) of Pub. L. 89–751 provided that: "The Secretary of Health, Education, and Welfare is authorized, at the request of any institution, to take such steps as are necessary to convert a Federal capital contribution (which shall include the amount allocated to it under section 822(b)(2)(A) of the Public Health Service Act [section 297a(b)(2)(A) of this title]) to a student loan fund of such institution, made under title VIII of the Public Health Service Act [this subchapter] from funds appropriated pursuant thereto for the fiscal year ending June 30, 1967, to a loan under section 827 of such Act [this section] as amended by this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296e, 297c, 297d, 297e of this title.

§ 297g. Modification of agreements or loans; compromise, waiver or release.

The Secretary may agree to modifications of agreements or loans made under this part, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this part. (July 1, 1944, ch. 373, title VIII, § 828, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 917.)

§ 297h. Transfers to scholarship program.

Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under part D to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 297a(b)(2)(B) of this title with respect to the amount so transferred may be withdrawn by the school from such fund. (July 1, 1944, ch. 373, title VIII, § 829, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 222(h), 82 Stat. 785.)

EFFECTIVE DATE

Section applicable with respect to appropriations for fiscal years beginning after June 30, 1969, see section 222(1) of Pub. L. 90–490, set out as a note under section 297b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 297a, 297c of this title.

PART C.—GENERAL

§ 298. National Advisory Council on Nurse Training.

(a) (1) There is hereby established a National Advisory Council on Nurse Training, consisting of the Surgeon General, who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and sixteen members appointed by the Secretary without regard to the civil service laws. Four of the appointed members shall be selected from the general public and twelve shall be selected from among leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services.

(2) The Council shall advise the Surgeon General in the preparation of general regulations and with respect to policy matters arising in the administration of this subchapter, and in the review of applications for construction projects under part A of this subchapter and of applications under section 296d of this title.

(b) Omitted. (July 1, 1944, ch. 373, title VIII, § 841, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 917, and amended Nov. 3, 1966, Pub. L. 89–751, § 3(b), 80 Stat. 1230; Oct. 30, 1970, Pub. L. 91–515, title VI, § 601(b)(2), 84 Stat. 1311.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are classified generally to Title 5.

CODIFICATION

Subsec. (b), which provided for the appointment of a committee to review programs and make recommendations in a report to be submitted not later than November 1, 1967, at which time the committee ceased to exist, has been omitted as executed.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–515 struck out subsec. (c) which related to the payment of compensation and travel expenses of appointed members of the Council or the review committee who are not regular full-time employees of the United States.

1966—Subsec. (c). Pub. L. 89–751 substituted "$100" for "$75."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 296a, 296d of this title.

§ 298a. Noninterference with administration of institutions.

Nothing contained in this subchapter shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution. (July 1, 1944, ch. 373, title VIII, § 842, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 918.)

§ 298b. Definitions.

For purposes of this subchapter—

(a) The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(b) The term "school of nursing" means a collegiate, associate degree, or diploma school of nursing.

(c) The term "collegiate school of nursing" means a department, division, or other administrative unit

in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college, or university is accredited.

(d) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college or university is accredited.

(e) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

(f) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State Agency, approved for such purpose by the Commissioner of Education, and when applied to a hospital, school, college, or university (or unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education, except that a program, or a hospital, school, college, or university (or a unit thereof), which is not, at the time of the application under this subchapter, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this subchapter in the following cases if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program, or the hospital, school, college, or university (or unit thereof), will meet the accreditation standards of such body or bodies (1) in the case of an applicant under part A of this subchapter for a grant for a project for construction of a new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (A) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (B) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school; (2) in the case of a school applying for a grant under section 296e of this title for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one); and (3) in the case of a school seeking an agreement under part B of this subchapter for establishment of a student loan fund, prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the agreement with such school is made under part B of this subchapter; except that the provisions of this clause (3) shall not apply for the purposes of section 297d of this title. For the purpose of this paragraph, the Commissioner of Education shall publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to the quality of training offered.

(g) The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a school which provides secondary education, as determined under State law except that it does not include any education provided beyond grade 12.

(i) The terms "construction" and "cost of construction" include (1) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (2) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered. (July 1, 1944, ch. 373, title VIII, § 843, as added Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 918, and amended Oct. 22, 1965, Pub. L. 89–290, §5(b), 79 Stat. 1058; Aug. 16, 1968, Pub. L. 90–490, title II, §§ 203, 204, 213, 231, 82 Stat. 780, 783, 787.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–490, § 203, included the Trust Territory of the Pacific Islands in the term "State".

Subsec. (c). Pub. L. 90–490, §§ 204, 231 (a), (c), defined "collegiate school of nursing" as one also providing advanced training related to the program of education provided by such school, substituted "a program" for "an accredited program", and required that the program, unit, college, or university be accredited, respectively.

Subsec. (d). Pub. L. 90–490, § 231 (b), (d), substituted "a two-year program" for "an accredited two-year program" and required that the program, unit, college, or university be accredited, respectively.

Subsec. (e). Pub. L. 90–490, § 231 (a), (e), substituted "a program" for "an accredited program" and required that the program, affiliated school, hospital, university, or independent school be accredited, respectively.

Subsec. (f). Pub. L. 90–490, § 231 (f), (g), amended text preceding cl. (1) to authorize program accreditation by a State agency, to define "accredited" when applied to a hospital, school, college, or university, struck out "or a program accredited for the purpose of this subchapter by the Commissioner of Education" preceding ", except that a program" and "by the school which provides or will provide such programs" preceding ", eligible for accreditation", and inserted ", or a hospital, school, college, or university (or a unit thereof)," after "except that a program" and ", or the hospital, school, college, or university (or a unit thereof)," after "reasonable assurance that the program"; and added end sentence requiring the Commissioner to publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to quality of training offered, respectively.

Subsec. (f)(2). Pub. L. 90–490, § 213, substituted "section 296e of this title for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one)" for "section 296d of this title for a project to strengthen, improve, or expand its programs to teach and train nurses, prior to or upon completion of the project with respect to which the application is filed".

1965—Subsec. (f). Pub. L. 89–290 inserted "or a program accredited for the purpose of this subchapter by the Commissioner of Education", and substituted "new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation), (A) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (B) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school" for "new school, prior to or upon completion of the facility with respect to which the application is filed."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c) of this section by section 204 of Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 205 of Pub. L. 90–490, set out as a note under section 296 of this title.

Amendment of subsec. (f)(2) of this section by section 213 of Pub. L. 90–490 applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 214 of Pub. L. 90–490, set out as a note under section 296f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 751.

PART D.—SCHOLARSHIP GRANTS TO SCHOOLS OF NURSING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 296e, 297h of this title.

§ 298c. Scholarship grants.

(a) Eligible schools of nursing; annual award of scholarships.

The Secretary shall make grants as provided in this part to each public or other nonprofits school of nursing for scholarships to be awarded annually by such school to students thereof.

(b) Amount of grants.

The amount of the grant under subsection (a) of this section for the fiscal year ending June 30, 1970, and the next fiscal year to each such school shall be equal to $2,000 multiplied by one-tenth of the number of fulltime students of such school. For the fiscal year ending June 30, 1972, and for each of the three succeeding fiscal years, the grant under subsection (a) of this section shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending prior to July 1, 1971.

(c) Recipients of scholarships; uses of funds; limitation on amount of scholarship.

(1) Scholarships may be awarded by schools from grants under subsection (a) of this section—

(A) only to individuals who have been accepted by them for enrollment, and individuals enrolled and in good standing, as fulltime students, in the case of awards from such grants for the fiscal year ending June 30, 1970, and the next fiscal year; and

(B) only to individuals enrolled and in good standing as fulltime students who initially received scholarship awards out of such grants for a fiscal year ending prior to July 1, 1971, in the case of awards from such grants for the fiscal year ending June 30, 1972, and each of the three succeeding fiscal years.

(2) Scholarships from grants under subsection (a) of this section for any school year shall be awarded only to students of exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed $1,500 for any year in the case of any student, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Regulations.

Grants under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council of Nurse Training.

(e) Advances or reimbursement; intervals; adjustments.

Grants under subsection (a) of this section may be paid in advance or by way of reimbursement, and at such intervals as the Secretary may find it necessary; and with appropriate adjustments on account of overpayments or underpayments previously made. (July 1, 1944, ch. 373, title VIII, § 860, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 223(a), 82 Stat. 785.)

CODIFICATION

A prior section 298c, act July 1, 1944, ch. 373, title VIII, § 861, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1236, stated the purposes of opportunity grants for nursing education and authorized appropriations of $3,000,000; $5,000,000; and $7,000,000 for fiscal years ending June 30, 1967, 1968, and 1969, to be available for payments to institutions until close of fiscal year succeeding fiscal year for which appropriated.

EFFECTIVE DATE

Section 223(b) of Pub. L. 90–490 provided that: "The amendment made by subsection (a) [enacting this section and section 298c–1 of this title and omitting sections 298c–2 to 298c–6 of this title] shall apply with respect to appropriations for fiscal years ending after June 30, 1969."

§ 298c–1. Transfers to student loan program.

Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for scholarships under this part, or such larger percentage thereof as the Secretary may approve for such school for such year, may be transferred to the sums available to the school under this part for (and to be regarded as) Federal capital contributions, to be used for the same purpose as sums. (July 1, 1944, ch. 373, title VIII, § 861, as added Aug. 16, 1968, Pub. L. 90–490, title II, § 223(a), 82 Stat. 785.)

CODIFICATION

A prior section 298c–1, act July 1, 1944, ch. 373, title VIII, § 862, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1237, prescribed the amount of nursing educational opportunity grant and provided for its annual determination.

EFFECTIVE DATE

Section applicable with respect to appropriations for fiscal years ending after June 30, 1969, see section 223(b) of Pub. L. 90–490, set out as a note under section 298c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 296e of this title.

§§ 298c–2 to 298c–6. Omitted.

CODIFICATION

Sections, act July 1, 1944, ch. 373, title VIII, §§ 863–867, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1237–1239, related to duration of nursing educational opportunity grants; selection of recipients of such grants; allotment of grant funds among States; allocation of allotted funds to schools of nursing; and agreements with schools of nursing and conditions thereof, respectively; and were omitted in the general reorganization of this part from a program of opportunity grants for nursing education to a program of scholarship grants to schools of nursing.

§ 298c–7. Contracts to encourage full utilization of nursing educational talent.

(a) To assist in achieving the purposes of this part the Secretary is authorized (without regard to section 5 of Title 41) to enter into contracts, not to exceed $100,000 per year, with State and local educational agencies and other public or nonprofit organizations and institutions for the purpose of—

(1) identifying qualified youths of exceptional financial need and encouraging them to complete secondary school and undertake post-secondary educational training in the field of nursing, or

(2) publicizing existing forms of financial aid for nursing students, including aid furnished under this part.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section. (July 1, 1944, ch. 373, title VIII, § 868, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1239.)

§ 298c–8. Definition of "academic year."

As used in this part, the term "academic year" means an academic year or its equivalent as defined in regulations of the Secretary. (July 1, 1944, ch. 373, title VIII, § 869, as added Nov. 3, 1966, Pub. L. 89–751, § 8(b), 80 Stat. 1240.)

SUBCHAPTER VII.—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN HEART DISEASE, CANCER, STROKE, AND RELATED DISEASES

§ 299. Congressional declaration of purpose.

The purposes of this subchapter are—

(a) through grants and contracts, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education), for medical data exchange, and for demonstrations of patient care in the fields of heart disease, cancer, stroke, and kidney disease, and other related diseases;

(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the prevention, diagnosis, and treatment and rehabilitation to persons suffering from these diseases;

(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and

(d) by these means, to improve generally the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies.

(July 1, 1944, ch. 373, title IX, § 900, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 926, and amended Oct. 30, 1970, Pub. L. 91–515, title I, § 102, 84 Stat. 1297.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515 added the provisions authorizing the making of contracts, the encouragement and assistance of medical data exchange programs through grants and contracts, and the applicability of grants and contracts to kidney disease programs.

Subsec. (b). Pub. L. 91–515 added the provisions affording to the medical profession and medical institutions the opportunity of making available to their patients the latest advances in prevention and rehabilitation.

Subsec. (c). Pub. L. 91–515 added subsec (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 91–515 redesignated former subsec. (c) as (d), and, as so redesignated, substituted "the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services" for "the health manpower and facilities available to the Nation".

SHORT TITLE OF 1970 AMENDMENT

Section 101 of Pub. L. 91–515 provided that: "This title [which amended this section and sections 299a—299g, 299i, and 299j of this title, and enacted provisions set out notes under section 299e of this title] may be cited as the 'Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970'."

SHORT TITLE

Section 1 of Pub. L. 89–239 provided: "That this Act [which added this subchapter] may be cited as the 'Heart Disease, Cancer, and Stroke Amendments of 1965'."

§ 299a. Authorization of appropriations.

(a) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1966, $90,000,000 for the fiscal year ending June 30, 1967, $200,000,000 for the fiscal year ending June 30, 1968, $65,000,000 for the fiscal year ending June 30, 1969, $120,000,000 for the next fiscal year, $125,000,000 for the fiscal year ending June 30, 1971, $150,000,000 for the fiscal year ending June 30, 1972, and $250,000,000 for the fiscal year ending June 30, 1973, for grants to assist public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private institutions and agencies in planning, in conducting feasibility studies, and in operating pilot projects for the establishment, of regional medical programs of research, training, and

demonstration activities for carrying out the purposes of this subchapter and for contracts to carry out the purposes of this subchapter. Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease. Of the sums appropriated under this section for any fiscal year ending after June 30, 1970, not more than $5,000,000 may be made available in any such year for grants for new construction.

(b) A grant under this subchapter shall be for part or all of the cost of the planning or other activities with respect to which the application is made, except that any such grant with respect to construction of, or provision of built-in (as determined in accordance with regulations) equipment for, any facility may not exceed 90 per centum of the cost of such construction or equipment.

(c) Funds appropriated pursuant to this subchapter shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent it is, as determined in accordance with regulations, incident to those research, training, or demonstration activities which are encompassed by the purposes of this subchapter. No patient shall be furnished hospital, medical, or other care at any facility incident to research, training, or demonstration activities carried out with funds appropriated pursuant to this subchapter, unless he has been referred to such facility by a practicing physician or, where appropriate, a practicing dentist.

(d) Grants under this subchapter to any agency or institution, or combination thereof, for a regional medical program may be used by it to assist in meeting the cost of participation in such program by any Federal hospital.

(e) At the request of any recipient of a grant under this subchapter, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished by the Secretary to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection with the detail of an officer or employee of the Government to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the regional medical program to which the grant under this subchapter is made. (July 1, 1944, ch. 373, title IX, § 901, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 926, and amended Oct. 15, 1968, Pub. L. 90–574, title I, §§ 101, 102, 107, 82 Stat. 1005, 1006; June 30, 1970, Pub. L. 91–296, title IV, § 401(b)(1)(F), 84 Stat. 352; Oct. 30, 1970, Pub. L. 91–515, title I, § 103, 84 Stat. 1298.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 103(a), added provisions authorizing appropriations for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973, provisions authorizing the expenditure of appropriations pursuant to contracts carrying out the purposes of this subchapter, and provisions restricting availability of sums for activities in the field of kidney disease and for grants for new construction and struck out provisions making available for grants until the end of the fiscal year followed the fiscal year for which appropriated, sums appropriated under this section for any fiscal year.

Subsec. (e). Pub. L. 91–515, § 103(b), added subsec. (e).

Pub. L. 91–296 struck out provisions authorizing the use of up to 1 per centum of appropriated funds under this subchapter for evaluation of the program authorized.

1968—Subsec. (a). Pub. L. 90–574, §§ 101, 102, added provisions authorizing appropriations of $65,000,000 for the fiscal year ending June 30, 1969, and $120,000,000 for the next fiscal year, and provisions authorizing the Secretary, for any fiscal year ending after June 30, 1969, to make available from funds appropriated pursuant to this section, but not exceeding 1%, an amount for evaluation of the programs authorized by this subchapter.

Subsec. (c). Pub. L. 90–574, § 107(a), added "or, where appropriate, a practicing dentist" following "a practicing physician".

Subsec. (d). Pub. L. 90–574, § 107(b), added subsec. (d).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 401(b)(1) of Pub. L. 91–296 provided in part that the amendment by section 401(b)(1)(F) of Pub. L. 91–296 [amending subsec. (a) of this section] would be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 507 of Pub. L. 90–574 provided that: "As used in the amendments made by this Act [which enacted sections 229a, 299j, 2688e–2688q, and 2697a of this title, amended this section and sections 210g, 242h, 291a, 291b, 299b–299e, 2693, and 3259 of this title, repealed section 3442 of this title, and enacted provisions set out as notes under section 291a, 2688e, (former) 3442 of this title, section 278 of Title 22 and section 1781 of Title 38], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 299b. Definitions.

For the purposes of this subchapter—

(a) The term "regional medical program" means a cooperative arrangement among a group of public or nonprofit private institutions or agencies engaged in research, training, prevention, diagnosis, treatment, and rehabilitation relating to heart disease, cancer, stroke, or kidney disease and, at the option of the applicant, other related diseases; but only if such group—

(1) is situated within a geographic area, composed of any part or parts of any one or more States (which for purposes of this subchapter includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa; and the Trust Territory of the Pacific Islands), which the Secretary determines, in accordance with regulations, to be appropriate for carrying out the purposes of this subchapter;

(2) consists of one or more medical centers, one or more clinical research centers, and one or more hospitals; and

(3) has in effect cooperative arrangements among its component units which the Secretary finds will be adequate for effectively carrying out the purposes of this subchapter.

(b) The term "medical center" means a medical school or other medical institution involved in post-

graduate medical training and one or more hospitals affiliated therewith for teaching, research, and demonstration purposes.

(c) The term "clinical research center" means an institution (or part of an institution) the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high-quality diagnostic and treatment services for inpatients and outpatients.

(d) The term "hospital" means a hospital as defined in section 291o(c) of this title or other health facility in which local capability for diagnosis and treatment is supported and augmented by the program established under this subchapter.

(e) The term "nonprofit" as applied to any institution or agency means an institution or agency which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term "construction" means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs, alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings. (July 1, 1944, ch. 373, title IX, § 902, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 927, and amended Oct. 15, 1968, Pub. L. 90–574, title I, § 103, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 104, 111(b), 84 Stat. 1299, 1301.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 104(a), expanded term "regional medical program" to include prevention and rehabilitation programs and added kidney disease to the list of enumerated diseases.

Subsec. (a)(1), (3). Pub. L. 91–515, § 111(b), substituted "Secretary" for "Surgeon General" wherever appearing therein.

Subsec. (f). Pub. L. 91–515, § 104(b), substituted "means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs" for "includes".

1968—Subsec. (a)(1). Pub. L. 90–574 added "(which for purposes of this subchapter includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands)" following "States".

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 299c. Planning grants.

(a) Development of regional medical programs.

The Secretary, upon the recommendation of the National Advisory Council on Regional Medical Programs established by section 299e of this title (hereafter in this subchapter referred to as the "Council"), is authorized to make grants to public or nonprofit private universities medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist them in planning the development of regional medical programs.

(b) Requisite assurances.

Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it contains or is supported by—

(1) reasonable assurances that Federal funds paid pursuant to any such grant will be used only for the purposes for which paid and in accordance with the applicable provisions of this subchapter and the regulations thereunder;

(2) reasonable assurances that the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) reasonable assurances that the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) a satisfactory showing that the applicant has designated an advisory group, to advise the applicant (and the institutions and agencies participating in the resulting regional medical program) in formulating and carrying out the plan for the establishment and operation of such regional medical program, which advisory group includes practicing physicians, medical center officials, hospital administrators, representatives from appropriate medical societies, voluntary or official health agencies, health planning agencies, and representatives of other organizations, institutions, and agencies concerned with activities of the kind to be carried on under the program (including as an ex officio member, if there is located in such region one or more hospitals or other health facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such advisory group as the representative of the hospitals or other health care facilities of such Administration which are located in such region) and members of the public familiar with the need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community orientation (as determined by the Secretary). (July 1, 1944, ch. 373, title IX, § 903, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 927, and amended Oct. 15, 1968, Pub. L. 90–574, title I, § 104, 82 Stat. 1005; Oct 30, 1970, Pub. L. 91–515, title I, §§ 105, 111(b), 84 Stat. 1299, 1301.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 111(b), substituted "Secretary" for "Surgeon General".

Subsec. (b). Pub. L. 91–515, § 111(b), substituted "Secretary" for "Surgeon General" in opening provisions.

Subsec. (b)(2),(3). Pub. L. 91–515, § 111(b), substituted "Secretary" for "Surgeon General" wherever appearing therein.

Subsec. (b)(4). Pub. L. 91–515, § 105, expanded the advisory group to include representatives from official health agencies and health planning agencies, authorized an ex

officio member on the advisory group, and required the advisory group to be sufficient in number to insure adequate community orientation (as determined by the Secretary).

1968—Subsec. (a). Pub. L. 90–574 added ", and combinations thereof," following "agencies and institutions".

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299d of this title.

§ 299d. Grants for establishment and operation of regional medical programs.

(a) Construction and equipment of facilities.

The Secretary, upon the recommendation of the Council, is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist in establishment and operation of regional medical programs, including construction and equipment of facilities in connection therewith.

(b) Requisite assurances.

Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it is recommended by the advisory group described in section 299c(b)(4) of this title, if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 246(b) of this title covering any area in which the regional medical program for which the application is made will be located, and if the application contains or is supported by reasonable assurances that—

(1) Federal funds paid pursuant to any such grant (A) will be used only for the purposes for which paid and in accordance with the applicable provisions of this subchapter and the regulations thereunder, and (B) will not supplant funds that are otherwise available for establishment or operation of the regional medical program with respect to which the grant is made;

(2) the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40.

(July 1, 1944, ch. 373, title IX, § 904, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 928, and amended Oct. 15, 1968, Pub. L. 90–574, title I, § 104, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 106, 111(b), 84 Stat. 1299, 1301.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–515, § 111(b), substituted "Secretary" for "Surgeon General".

Subsec. (b). Pub. L. 91–515, §§ 106, 111(b), added the provisions requiring that, prior to recommendation for approval by the advisory group of the application, opportunity for consideration of the application be given to each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 246(b) of this title, covering any area involved in the application, and substituted "Secretary" for "Surgeon General".

Subsec. (b)(2),(3). Pub. L. 91–515, § 111(b), substituted "Secretary" for "Surgeon General" wherever appearing therein.

1968—Subsec. (a). Pub. L. 90–574 added ", and combinations thereof," following "agencies and institutions".

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 299e. National Advisory Council on Regional Medical Programs.

(a) Establishment; composition; appointment of members.

The Secretary may appoint, without regard to the civil service laws, a National Advisory Council on Regional Medical Programs. The Council shall consist of the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, who shall be the Chairman, the Chief Medical Director of the Veterans' Administration who shall be an ex officio member, and twenty members, not otherwise in the regular full-time employ of the United States, who are leaders in the fields of the fundamental sciences, the medical sciences, health care administration, or public affairs. At least two of the appointed members shall be practicing physicians, one shall be outstanding in the study or health care of persons suffering from heart disease, one shall be outstanding in the study or health care of persons suffering from cancer, one shall be outstanding in the study or health care of persons suffering from stroke, one shall be outstanding in the study or health care of persons suffering from kidney disease, two shall be outstanding in the field of prevention of heart disease, cancer, stroke, or kidney disease, and four shall be members of the public.

(b) Term of office; two term limit.

Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c) Functions of Council.

The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this subchapter. The Council shall consider all applications for grants under this subchapter and shall make recommendations to the Secretary with respect to approval of applications for and the amounts of grants under this subchapter. (July 1, 1944, ch. 373, title IX, § 905, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 929, and amended Oct. 15, 1968, Pub. L. 90–574, title I, § 105, 82 Stat. 1005; Oct. 30, 1970, Pub. L. 91–515, title I, §§ 107(a), 111(b), title VI, § 601(b) (2), (4), 84 Stat. 1299, 1301, 1311.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub L. 91–515, § 107(a), generally reorganized the Council by providing for the appointment of the Council by the Secretary in place of the Surgeon General, dropping the Surgeon General from membership in the Council, appointing as a member, and as the chairman in place of the Surgeon General, the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, appointing as an ex officio member the Chief Medical Director of the Veterans Administration, increasing the membership from sixteen to twenty, authorizing membership for leaders in the field of health care administration, requiring members to be outstanding in the health care of the enumerated diseases instead of outstanding in their diagnosis, or treatment, requiring membership for a specialist in the study or health care of persons suffering from kidney disease and two specalists in the field of prevention of heart disease, cancer, stroke, or kidney disease, and requiring four members to be members of the public.

Subsec. (b). Pub. L. 91–515, § 111(b)), substituted "Secretary" for "Surgeon General".

Subsec. (c). Pub. L. 91–515, §§ 111(b), 601(b) (2), (4), redesignated former subsec. (d) as (c), and, as so redesignated, substituted "Secretary" for "Surgeon General" wherever appearing therein. Former subsec. (c), which related to the payment of compensation and travel expenses of appointed members of the Council, was struck out.

Subsec. (d). Pub. L. 91–515, § 601(b)(4) redesignated former subsec. (d) as (c).

1968—Subsec. (a). Pub. L. 90–574, § 105(a), increased from twelve to sixteen the number of members on the Council.

Subsec. (b). Pub. L. 90–574, § 105(b), added the provision for the expiration of the terms of office of four members at the end of the fourth year after the date of appointment.

TERM OF OFFICE OF THE FOUR ADDITIONAL MEMBERS

Appointed to National Advisory Council on Regional Medical Programs. Section 107(b) of Pub. L. 91–515 provided that:

"Of the persons first appointed under section 905(a) of the Public Health Service Act [subsec. (a) of this section] to serve as the four additional members of the National Advisory Council on Regional Medical Programs authorized by the amendment made by subsection (a) of this section [amending subsec. (a) of this section]—

"(1) one shall serve for a term of one year,
(2) one shall serve for a term of two years,
(3) one shall serve for a term of three years, and
(4) one shall serve for a term of four years,

as designated by the Secretary of Health, Education, and Welfare at the time of appointment."

CONTINUATION IN OFFICE FOR APPOINTED TERMS OF MEMBERS OF NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS IN OFFICE ON OCT. 30, 1970

Section 107(c) of Pub. L. 91–515 provided that: "Members of the National Advisory Council on Regional Medical Programs (other than the Surgeon General) in office on the date of enactment of this Act [Oct. 30, 1970] shall continue in office in accordance with the term of office for which they were last appointed to the Council."

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 299c of this title.

§ 299f. Rules and regulations.

The Secretary, after consultation with the Council, shall prescribe general regulations covering the terms and conditions for approving applications for grants under this subchapter and the coordination of programs assisted under this subchapter with programs for training, research, and demonstrations relating to the same diseases assisted or authorized under other subchapters of this chapter or other Acts of Congress. (July 1, 1944, ch. 373, title IX, § 906, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 930, and amended Oct. 30, 1970, Pub. L. 91–515, title I, § 111(b), 84 Stat. 1301.)

AMENDMENTS

1970—Pub. L. 91–515 substituted "Secretary" for "Surgeon General".

§ 299g. Information of special treatment and training centers; availability of information to interested parties.

The Secretary shall establish, and maintain on a current basis, a list or lists of facilities in the United States equipped and staffed to provide the most advanced methods and techniques in the diagnosis and treatment of heart disease, cancer, stroke, or kidney disease, together with such related information, including the availability of advanced specialty training in such facilities, as he deems useful, and shall make such list or lists and related information readily available to licensed practitioners and other persons requiring such information. To the end of making such list or lists and other information most useful, the Secretary shall from time to time consult with interested national professional organizations. (July 1, 1944, ch. 373, title IX, § 907, as added Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat.

930, and amended Oct. 30, 1970, Pub. L. 91-515, title I, §§ 108, 111(b), 84 Stat. 1300, 1301.)

AMENDMENTS

1970—Pub. L. 91-515 added reference to kidney disease, and substituted "Secretary" for "Surgeon General" wherever appearing therein.

§ 299h. Report to President and Congress.

CODIFICATION

Section, act July 1, 1944, ch. 373, title IX, § 908, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 930, called for a report to the President and the Congress on or before June 30, 1967, by the Surgeon General concerning activities under this subchapter with required statements, appraisals, and recommendations, and has been omitted as executed.

§ 299i. Records and audit.

(a) Requisite records.

Each recipient of a grant or contract under this subchapter shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) Accessibility of records.

The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this subchapter which are pertinent to any such grant. (July 1, 1944, ch. 373, title IX, § 909, as added Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 930, and amended Oct. 30, 1970, Pub. L. 91-515, title I, §§ 109, 111(b), 84 Stat. 1300, 1301.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-515 added reference to contracts wherever appearing therein, and substituted "Secretary" for "Surgeon General".

§ 299j. Utilization of funds for health services delivery programs.

(a) Grants and contracts for multiprogram services.

To facilitate interregional cooperation, and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this subchapter to make grants to public or nonprofit private agencies or institutions or combinations thereof and to contract for—

(1) programs, services, and activities of substantial use to two or more regional medical programs;

(2) development, trial, or demonstration of methods for control of heart disease, cancer, stroke, kidney disease, or other related diseases;

(3) the collection and study of epidemiologic data related to any of the diseases referred to in paragraph (2);

(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any of such diseases; and

(5) the conduct of cooperative clinical field trials.

(b) Costs of special projects.

The Secretary is authorized to assist in meeting the costs of special projects for improving or developing new means for the delivery of health services concerned with the diseases with which this subchapter is concerned.

(c) Support of research, studies, investigations, training, and demonstrations.

The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed to maximize the utilization of manpower in the delivery of health services. (July 1, 1944, ch. 373, title IX, § 910, as added Oct. 15, 1968, Pub. L. 90-574, title I, § 106, 82 Stat. 1005, and amended Oct. 15, 1970, Pub. L. 91-515, title I, § 110, 84 Stat. 1300.)

AMENDMENTS

1970—Pub. L. 91-515 designated existing provisions as subsec. (a), and, as so designated, substantially expanded authority of Secretary to utilize funds appropriated under this subchapter, and added subsec. (b) and (c).

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90-574, which enacted this section to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90-574, set out as a note under section 1781 of Title 38.

SUBCHAPTER VIII.—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

§ 300. Project grants and contracts for family planning services.

(a) Authority of Secretary.

The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects.

(b) Factors determining.

In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance.

(c) Authorization of appropriations.

For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; and $90,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title X, § 1001, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1506.)

SHORT TITLE

Section 1 of Pub. L. 91-572 provided that: "This Act [which enacted this subchapter and sections 3505a to 3505c of this title, and amended provisions set out as notes under section 201 of this title] may be cited as the 'Family Planning Services and Population Research Act of 1970'."

CONGRESSIONAL DECLARATION OF PURPOSE

Section 2 of Pub. L. 91-572 provided that:

"It is the purpose of this Act [see Short Title note set out hereunder]—

"(1) to assist in making comprehensive voluntary family planning services readily available to all persons desiring such services;

"(2) to coordinate domestic population and family planning research with the present and future needs of family planning programs;

"(3) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

"(4) to enable public and nonprofit private entities to plan and develop comprehensive programs of family planning services;

"(5) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

"(6) to evaluate and improve the effectiveness of family planning service programs and of population research;

"(7) to assist in providing trained manpower needed to effectively carry out programs of population research and family planning services; and

"(8) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population research and family planning, through which the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') shall carry out the purposes of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300a-1, 300a-4 of this title.

§ 300a. Formula grants to States for family planning services.

(a) Authority of Secretary; prerequisites.

The Secretary is authorized to make grants, from allotments made under subsection (b) of this section, to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) Factors determining amount of State allotments.

The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) Definitions.

For the purposes of this section, the term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) Authorization of appropriations.

For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title X, § 1002, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1506.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300a-1, 300a-4 of this title.

§ 300a-1. Training grants and contracts; authorization of appropriations.

(a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contract with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 300 or 300a of this title.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; and $4,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title X, § 1003, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507.)

§ 300a-2. Research grants and contracts; authorization of appropriations.

(a) In order to promote research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population, the Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals for projects for research and research training in such fields.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $50,000,000 for the fiscal year ending June 30, 1972; and $65,000,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title X, § 1004, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507.)

§ 300a-3. Informational and educational materials development grants and contracts; authorization of appropriations.

(a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; and $1,250,000 for the fiscal year ending June 30, 1973. (July 1, 1944, ch. 373, title X, § 1005, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507.)

§ 300a-4. Grants and contracts.

(a) Regulations governing execution.

Grants and contracts made under this subchapter shall be made in accordance with such regulations as the Secretary may promulgate.

(b) Payment of grants.

Grants under this subchapter shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) Prerequisites.

A grant may be made or contract entered into under section 300 or 300a of this title for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe. (July 1, 1944, ch. 373, title X, § 1006, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1507.)

§ 300a-5. Voluntary participation by individuals; participation not prerequisite for eligibility or receipt of other services and information.

The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this subchapter (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information. (July 1, 1944, ch. 373, title X, § 1007, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1508.)

§ 300a-6. Prohibition against funding programs using abortion as family planning method.

None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning. (July 1, 1944, ch. 373, title X, § 1008, as added Dec. 24, 1970, Pub. L. 91-572, § 6(c), 84 Stat. 1508.)

Chapter 7.—SOCIAL SECURITY

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 sections 8141, 8311, 8505; title 25 section 639; title 26 section 1402.

SUBCHAPTER I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

AMENDMENTS

1960—Pub. L. 86-778, title VI, § 601(a), Sept. 13, 1960, 74 Stat. 987, included medical assistance for the aged in the heading of the subchapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 1301, 1306, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1320a, 1382, 1395v, 1396a, 1396b, 1396d of this title; title 31 section 665.

§ 301. Appropriation.

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to aged needy individuals, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), State plans for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged. (Aug. 14, 1935, ch. 531, title I, § 1, 49 Stat. 620; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(a), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 311(a), 70 Stat. 848; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(b), 74 Stat. 987; July 25, 1962, Pub. L. 87-543, title I, § 104(c)(1), 76 Stat. 185.)

AMENDMENTS

1962—Pub. L. 87-543 eliminated from clause (a) the provision relating to the purpose of encouraging each State, as far as practicable under the conditions in the State, to help aged needy individuals attain self-care, and added clause (c) incorporating the eliminated provision.

1960—Pub. L. 86-778 authorized appropriations for the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services.

1956—Act Aug. 1, 1956, eliminated the specific appropriation for the fiscal year ending June 30, 1956, and inserted provisions relating to attainment of self-care by individuals.

1950—Act Aug. 28, 1950, § 361(a), substituted "Federal Security Administrator (hereinafter referred to as the 'Administrator')" for "Social Security Board established by subchapter I of this chapter (hereinafter referred to as the 'Board')".

EFFECTIVE DATE OF 1960 AMENDMENT

Section 604 of Pub. L. 86-778 provided that: "The amendments made by section 601 of this Act [to this section and sections 302, 303 (a), (b)(2)(B), 304 and 306 of this title] shall take effect October 1, 1960, and the amendments made by section 602 [to section 1308 of this title] shall be effective with respect to fiscal years ending after 1960."

SHORT TITLE OF 1962 AMENDMENT

Section 1 of Pub. L. 87-543 provided in part that Pub. L. 87-543, which enacted sections 609, 727, 728, 1314, 1315 and 1381—1385 of this title, amended sections 301—303, 306, 601—609, former sections 721—723 and 726, sections 906, 1201—1203, 1206, 1301, 1308, 1309, 1311, 1313, 1351—1353 and 1355 of this title, repealed section 1202a

of this title and provisions set out as notes under sections 1202a and 1308 of this title, and enacted provisions set out as notes under sections 301—303, 306, 601, 603, 606, 608, 609, 722, 1202, 1308 and 1383 of this title, may be cited as the "Public Welfare Amendments of 1962."

SHORT TITLE OF 1960 AMENDMENT

Section 1 of Pub. L. 86-778 provided that Pub. L. 86-778, which enacted sections 726 and 1312 of this title and sections 3125 and 3308 of Title 26, Internal Revenue Code, amended this section and sections 302—304, 306, 401, 401a, 402, 403, 405, 408—411, 413—416, 418, 422, 423, 501, 701, 702, 704, 711, 712, 714, former sections 721 and 722, sections 1101—1104, 1202, 1301, 1308, 1321—1324, 1361, 1363, 1364, 1367, 1371, and 1400c of this title, sections 1402, 1403, 3121, 3301, 3302, 3305, 3306, 6205, 6413, 7213, and 7701 of Title 26, section 49d of Title 29, Labor, sections 228a, 228c, and 228e of Title 45, Railroads, and section 1421h of Title 48, Territories and Insular Possessions, repealed section 419 of this title, and enacted provisions set out as notes under sections 301, 302, 401, 402, 403, 405, 410, 411, 413—418, 422, 423, 701, 1101, 1202, 1202a, 1301, 1321, 1362, 1363 and 1364 of this title, under sections 1402, 3121, 3301, 3304, 3305, and 3306 of Title 26, and under section 49d of Title 29, may be cited as the "Social Security Amendments of 1960."

SHORT TITLE OF 1956 AMENDMENT

Section 1 of act Aug. 1, 1956, provided that act Aug. 1, 1956, which enacted sections 401a, 423, former section 424, sections 425, 906, and 1310 of this title, and section 3113 of Title 26, Internal Revenue Code of 1954, amended sections 301—303, 401, 402, 403, 405, 409—411, 413—416, 418, 421, 422, 601—603, 606, former section 721(a), sections 1201—1203, 1301, 1308, and 1351—1353 of this title, sections 1401, 1402, 3101, 3102, 3111, and 3121 of Title 26, Internal Revenue Code of 1954, and sections 228 and 228e of Title 45, Railroads, and amended note to section 1426 of Title 26, Internal Revenue Code of 1939 and to section 3121 of Title 26, Internal Revenue Code of 1954, shall be popularly known as the "Social Seurity Amendments of 1956".

SHORT TITLE OF 1950 AMENDMENT

Section 1 of act Aug. 28, 1950, provided that act Aug. 28, 1950, which amended this chapter and chapter 9 of Title 26, Internal Revenue Code of 1939, should be popularly known as the "Social Security Act Amendments of 1950". For distribution of act Aug. 28, 1950, see Tables Volume.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "Social Security Board established by sections 901, 902-904 of this title (hereinafter referred to as the 'Board')" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

DECLARATION OF PURPOSE OF TITLE III OF ACT AUG. 1, 1956

Section 300 of act Aug. 1, 1956, provided that: "It is the purpose of this title [adding sections 906 and 1310 of this title, and amending sections 301, 302 (a) (11), 303 (a), 601, 602 (a) (13), 603 (a), 606, 1201, 1202 (a) (13), 1203 (a), 1301 (a) (1), 1308, 1351, 1352 (a) (12), and 1353 (a) of this title] (a) to promote the health of the Nation by assisting States to extend and broaden their provisions for meeting the costs of medical care for persons eligible for public assistance by providing for separate matching of assistance expenditures for medical care, (b) to promote the well-being of the Nation by encouraging the States to place greater emphasis on helping to strengthen family life and helping needy families and individuals attain the maximum economic and personal independence of which they are capable, (c) to assist in improving the administration of public assistance programs (1) through making grants and contracts, and entering into jointly financed cooperative arrangements, for research or demonstration projects and (2) through Federal-State programs of grants to institutions and traineeships and fellowships so as to provide training of public welfare personnel, thereby securing more adequately trained personnel, and (d) to improve aid to dependent children."

DEFINITION OF "SECRETARY"

Section 201 of Pub. L. 87-543 provided that: "As used in this Act and in the provisions of the Social Security Act amended by this act [see Short Title note under this section], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

Section 709 of Pub. L. 86-778 provided that: "As used in this Act and the provisions of the Social Security Act amended by this Act [see Short Title note under this section] the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

CROSS REFERENCES

Railway labor, see notes under section 151 of Title 45, Railroads.

§ 302. State old-age and medical assistance plans.

(a) Contents.

A State plan for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as

the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes assistance for or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) If the State plan includes old-age assistance—

(A) provide that the State agency shall, in determining need for such assistance, take into consideration any other income and resources of an individual claiming old-age assistance, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (i) the State agency may disregard not more than $7.50 per month of any income and (ii) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder;

(B) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance; and

(C) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of such assistance to help them attain self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibilty for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom;

(D) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance; and

(E) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(12) if the State plan includes assistance to or in behalf of individuals who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilites, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of this medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients who would otherwise need care in such institutions, including appropriate medical treatment and other assistance: for services referred to in section 303 (a)(4)(A) (i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(13) if the State plan includes assistance to or in behalf of patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

(b) Approval by Secretary.

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan

which imposes as a condition of eligibility for assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for old-age assistance, excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

(c) Limitation on number of plans.

Nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter. (Aug. 14, 1935, ch. 531, title I, § 2, 49 Stat. 620; Aug. 10, 1939, ch. 666, title I, § 101, 53 Stat. 1360; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 1, § 301(a), (b), pt. 6, § 361(c), (d), 64 Stat. 548, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 311 (b), 70 Stat. 848; Aug. 28, 1958, Pub. L. 85–840, title V, § 510, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86–778, title VI, § 601(b), 74 Stat. 987; July 25, 1962, Pub. L. 87–543, title I, §§ 106(a)(1), 157, 76 Stat. 188, 207; July 30, 1965, Pub. L. 89–97, title II, § 221(a)(3), title IV, § 403(a), 79 Stat. 357, 418; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(1), 213(a)(1), 81 Stat. 895, 898.)

AMENDMENTS

1968—Subsec. (a)(5). Pub. L. 90–248, § 210(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10)(A)(i). Pub. L. 90–248, § 213(a)(1), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(10)(A). Pub. L. 89–97, § 403(a), placed a ceiling of $5 on the amount of any income which the state may disregard in making its determination of need and substituted "$80" and "$20" for "$50" and "$10" respectively.

Subsec. (a) (12), (13). Pub. L. 89–97, § 221(a)(3), added clauses (12) and (13).

1962—Subsec. (a)(10)(A). Pub. L. 87–543 added, "as well as any expenses reasonably attributable to the earning of any such income" and the exception provision.

1960—Subsec. (a). Pub. L. 86–778 inserted provisions relating to plans for medical assistance, and required plans that include old-age assistance to include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance.

Subsec. (b). Pub. L. 86–778 substituted "eligibility for assistance under the plan" for "eligibility for old-age assistance under the plan" in the opening provisions, eliminated provisions from cl. (1) which permitted the plan to impose an age requirement of as much as 70 years until Jan. 1, 1940, and inserted provisions in cl. (2) requiring the Secretary to disapprove any plan, in the case of applicants for medical assistance for the aged, which excludes any individual who resides in the State.

Subsec. (c). Pub. L. 86–778 added subsec. (c).

1958—Subsec. (a). Pub. L. 85–840 inserted provisions in cl. (11) requiring the State plan to include a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

1956—Subsec. (a). Act Aug. 1, 1956, added clause (11).

1950—Subsec. (a). Act Aug. 28, 1950, substituted in clause (4) "provide for * * * with reasonableness" for "provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency", and added clauses (9) and (10).

1939—Subsec. (a). Act Aug. 10, 1939, amended subsec. (a) generally commencing with cl. (5).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 210(b) of Pub. L. 90–248 provided that: "Each of the amendments made by subsection (a) [to sections 302(a)(5), 602(a)(5), 1202(a)(5), 1352(a)(5), 1382(a)(5) and 1396a(a)(4) of this title] shall become effective July 1, 1969, or, if earlier (with respect to a State's plan approved under title [subchapter] I, X, XIV, XVI, or XIX, or part A of title IV [of this chapter]) on the date as of which the modification of the State plan to comply with such amendment is approved."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 403(a) of Pub. L. 89–97 provided that the amendment of subsec. (a)(10)(A) of this section by said section was effective October 1, 1965.

Section 221(e) of Pub. L. 89–97 provided that: "The amendments made by this section [to this section and sections 303, 306, 1206, 1355, 1382, 1383, and 1385 of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this Chapter]."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(a) of Pub. L. 87–543 provided that: "The amendments made by sections 102(b)(1), 103, 106, and 134 [adding section 602(a)(13) and amending sections 302(a)(10)(A), 602(a)(7), 607(3), former section 723(a) and sections 1202(a)(8) and 1352(a)(8) of this title] shall become effective July 1, 1963."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86–778 effective Oct. 1, 1960, see section 604 of Pub. L. 86–778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (a) (11) of this section by Pub. L. 85–840 effective Oct. 1, 1958, see section 512 of Pub. L. 85–840, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 314 [315] of act Aug. 1, 1956, provided that: "The amendments made by sections 311(b), 312(b), 313 (b), and 314 (b) [to sections 302 (a) (11), 602 (a) (13), 1202 (a) (13), and 1352 (a) (12) of this title] shall become effective July 1, 1957."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 301 (c) of act Aug. 28, 1950, provided that the amendment of subsection (a) shall take effect as of July 1, 1951.

SHORT TITLE OF 1968 AMENDMENT

Section 1 of Pub. L. 90–248 provided that Pub. L. 90–248, which enacted sections 429, 610, 620—626, 630—644, 908, 1319–1320a, 1395b–1, and 1396e—1396g of this title, amended sections 302—304, 401—406, 409—411, 413, 415—418, 421—423, 424a, 425, 426, 426a, 427, 428, 601—604, 606—608, 622, 701—715, 729, 907, 1202—1204, 1306, 1308—1311, 1313—1318, 1352—1354, 1361, 1382, 1383, 1395d—1395f, 1395i, 1395k, 1395*l*, 1395n, 1395p—1395y, 1395aa, 1395cc, 1395dd, 1395gg, 1395*ll*, 1396a, 1396b, and 1396d of this title sections 1401, 1402, 3101, 3111, 3121, 3122, 3125, 3306, 6051, and 6413 of Title 26, and sections 228e and 228s–2 of Title 45, repealed sections 721—728, 1317, and 1395ee of this title, enacted provisions set out as notes under sections 242b, 302, 303, 402—405, 409, 410, 413, 415, 416, 418, 423, 424a, 427, 601—603, 607, 609, 620, 622, 626, 633, 701, 705, 1301, 1308, 1319, 1395c—1395f, 1395j—1395*l*, 1395n, 1395p, 1395u, 1395x, 1395aa, 1395dd, 1396a, 1396b, 1396d, and 1396g of this title, and amended provisions set out as notes under sections 603 and 608 of this title and sections 1401, 1402, 3121, and 6051

of Title 26, may be cited as the "Social Security Amendments of 1967."

SHORT TITLE OF 1965 AMENDMENT

Section 1 of Pub. L. 89–97 provided that Pub. L. 89–97, which enacted sections 424a, 426, 427, former sections 716 and 729–1, sections 907, 1316, former section 1317, sections 1318, 1395 to 1395dd, former section 1395ee, sections 1395gg to 1395*ll* and 1396—1396d of this title, section 6053 of Title 26, Internal Revenue Code, and section 228s–2 of Title 45, Railroads; amended sections 302, 303, 306, 401—406, 409 to 411, 413, 415—418, 422, 423, 425, 602, 603, 606, 701, 703, 704, 711, 713, 714, former sections 721—723, sections 1202, 1203, 1206, 1301, 1306, 1308, 1309, 1312, 1315, 1352, 1353, 1355, 1382, 1383, 1385, 1391, 1392, and 1395kk of this title, sections 72, 79, 213, 401, 451, 1401, 1402, 3101, 3102, 3111, 3121, 3122, 3125, 3201, 3211, 3221, 3401, 3402, 6051, 6205, 6413, 6652, and 6674 of Title 26, Internal Revenue Code, and sections 228a, 228e, and 228s–2 of Title 45. Railroads; repealed section 727 of this title; enacted provisions set out as notes under sections 242b, 302, 303, 306, 402, 403, 405, 410, 411, 415, 416, 418, 423, 424a, 426, 427, 602, former sections 722, 729–1 and sections 1202, 1301, 1308, 1309, 1315, 1316, 1352, 1382, 1395*l*, 1395*o*, 1395p, 1396b, and 2981 of this title, sections 213, 1401, 1402, 3121, 3201, and 6053 of Title 26, Internal Revenue Code, and section 228s–2 of Title 45, Railroads; and amended provisions set out as notes under sections 415 and 418 of this title and section 3121 of Title 26, Internal Revenue Code, may be cited as the "Social Security Amendments of 1965".

SHORT TITLE OF 1958 AMENDMENT

Section 1 of Pub. L. 85–840 provided that Pub. L. 85–840, which added former sections 722—725 and section 1311 of this title, amended this section and sections 303, 401, 402, 403, 406, 408, 409—411, 413—418, 422, 423, 425, 603, 701, 702, 711, 712, 1203, 1301, 1306, 1308 and 1353 of this title, sections 1401, 1402, 3101, 3111, 3121, 3122, 6334 and 6413 of Title 26, Internal Revenue Code, and section 228a of Title 45, Railroads, repealed section 424 of this title, and enacted notes set out under sections 303, 402, 403, 410, 411, 415, 416, 417, 418, 422 former section 721 and section 1202a of this title and sections 1401, 1402 and 3121 of Title 26, should be popularly known as the "Social Security Amendments of 1958".

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Act Oct. 20, 1951, ch. 521, title VI, § 618, 65 Stat. 569, as amended by Pub. L. 86–778, title VI, § 603(a), Sept. 13, 1960, 74 Stat. 992; Pub. L. 87–543, title I, § 141(e), July 25, 1962, 76 Stat. 205, provided that: "No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to title I (other than section 3(a)(3) thereof), IV, X, XIV, or XVI (other than section 1603(a)(3) thereof) of the Social Security Act, as amended [subchapters I (other than section 303(a)(3) thereof), IV, X, XIV, or XVI (other than section 1383(a)(3) thereof) of this chapter], by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes."

Section 603(b) of Pub. L. 86–778 provided that the amendment of section 618 of act Oct. 20, 1951, by Pub. L. 86–778, which inserted words "(other than section 3(a)(3) thereof)" shall take effect Oct. 1, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 304, 306, 602, 1202, 1315, 1352 of this title; title 25 sections 683, 686, 689.

§ 303. Payments to States; computation of amounts; quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) 31/37 of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of old-age assistance for such month, plus (II) 15 per centum of the total expended during such month as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of old-age assistance for such month, or

(ii)(I) the Federal medical percentage (as defined in section 306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by

the total number of such recipients of old-age assistance for such month, or (b) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product or $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as old-age assistance under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of old-age assistance for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 306(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State whose State plan approved under section 302 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided,* That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) Subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State

or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 302 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Secretary of Health, Education, and Welfare may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to assistance furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 302 of this title must provide that the State agency shall make available to applicants for or recipients of old-age assistance under such State plan at least those services to help them attain or retain capability for self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection.

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for

mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection. (Aug. 14, 1935, ch. 531, title I, § 3, 49 Stat. 621; Aug. 10, 1939; ch. 666, title I, § 102, 53 Stat. 1361; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title V, § 501, 60 Stat. 991; June 14, 1948, ch. 468, § 3(a), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 1, § 302(a), pt. 6, § 361(c)(d), 64 Stat. 548, 558; July 18, 1952, ch. 945, § 8(a), 66 Stat. 778; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303, 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 301, 311(c), 341, 70 Stat. 846, 848, 852; Aug. 28, 1958, Pub. L. 85–840, title V, § 501, 72 Stat. 1047; Sept. 13, 1960, Pub L. 86–778, title VI, § 601(c), (d), 74 Stat. 989, 990; May 8, 1961, Pub. L. 87–31, § 5(a), (b), 75 Stat. 77; June 30, 1961, Pub. L. 87–64, title III, § 303(a), 75 Stat. 143; July 25, 1962, Pub. L. 87–543, title I, §§ 101(a)(1), (b)(1), 132(a), 76 Stat. 173, 179, 193; July 30, 1965, Pub. L. 89–97, title I, § 122, title II, § 221(a)(4), title IV, § 401(a), 79 Stat. 353, 357, 414; Jan. 2, 1968, Pub. L. 90–248, title II, § 12(a), 81 Stat. 897.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(4)(D), (E), is classified to sections 31—42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(4)(D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1968—Subsec. (a)(4)(D). Pub. L. 90–248 inserted ", except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89–97, §§ 122, 401(a), inserted "premiums under part B of subchapter XVI of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and changed the first step of the formula for determining federal payments to states with approved plans for old-age assistance under this subchapter, contained in clause (A), by providing federal sharing in $\frac{31}{37}$ths of the first $37 of the average monthly assistance payment instead of $\frac{29}{35}$ths of the first $35 of the average monthly assistance payment, extended the application of the federal percentage in the second step of the formula to an additional $38 of the state's average payment, restated the formula for the second and third steps by eliminating clause (C) and combining such steps in clause (B) and making provision therein to give recognition to the state's expenditures for medical care before applying the federal percentage to the remaining expenditures for which federal participation is available, respectively.

Subsec. (a)(2)(A). Pub. L. 89–97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

Subsec. (d). Pub. L. 89–97, § 221(a)(4), added subsec. (d).

1962—Subsec. (a)(1). Pub. L. 87–543, § 132(a), substituted "$\frac{29}{35}$" and "$35"' for "four-fifths" and "$31", respectively, in subpar. (A), "$70" for "$66" in subpar. (B), and "$85" and "$70" for "$81" and "$66", respectively, in subpar. (C).

Subsec. (a)(2). Pub. L. 87–543, § 132(a), substituted "$37.50" for "$35.50", in subpar. (A) and "$45" and "$37.50" for "$43" and "$35.50", respectively, in subpar. (B).

Subsec. (a)(4). Pub. L. 87–543, § 101 (a)(1), (b)(1)(A), inserted in the opening provisions "whose State plan approved under section 302 of this title meets the requirements of subsection (c) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of assistance and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of old-age assistance to help them attain self-care.

Subsec. (a)(5). Pub. L. 87–543, § 101(b)(1)(B), added subsec. (a)(5).

Subsec. (c). Pub. L. 87–543, § 101(b)(1)(C), added subsec. (c).

1961—Subsec. (a)(1). Pub. L. 87–64, § 303(a)(1), substituted "$31" for "$30" in subpar. (A), "$66" for "$65" in subpar. (B), and "$81" for "$80" and "$66" for "$65" in subpar. (C).

Pub. L. 87–31, § 5(a), substituted "$80" and "$15" for "$77" and "$12", respectively, in subpar. (C).

Subsec. (a)(2). Pub. L. 87–64, § 303(a)(2), substituted "$35.50" for "$35" in subpar. (A), and "$35.50" for "$35" and "$43" for "$42.50" in subpar. (B).

Pub. L. 87–31, § 5(b), substituted "$42.50" and "$7.50" for "$41" and "$6", respectively, in subpar. (B).

1960—Subsec. (a). Pub. L. 86–778, § 601(c), added pars. (1)(C), (2)(B), and (3).

Subsec. (b)(2). Pub. L. 86–778, § 601(d), substituted "assistance furnished under the State plan" for "old-age assistance furnished under the State plan" in cl. (B).

1958—Subsec. (a). Pub. L. 85–840 increased the payments to the States to four-fifths of the first $30 of the average monthly payment per recipient, including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of $65, increased the average monthly payment to Puerto Rico and the Virgin Islands from $30 to $35, excluded Guam from the provisions which authorize an average monthly payment of $65 and included Guam within the provisions which authorize an

average monthly payment of $35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 301, substituted "during such quarter as old-age assistance in the form of money payments under the State plan" for "during such quarter as old-age assistance under the State plan" in clauses (1) and (2), "who received old-age assistance in the form of money payments for such month" for "who received old-age assistance for such month" in par. (A) of clause (1), and inserted clause (4).

Subsec. (a). Act Aug. 1, 1956, § 311 (c), eliminated ", which shall be used exclusively as old-age assistance," following "the Virgin Islands, an amount" in clauses (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care" for "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose" in clause (3).

Subsec. (a). Act Aug. 1, 1956, § 341, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as old-age assistance," following "the Virgin Islands, an amount", and substituted "$60" for "$55", in clause (1), substituted "the product of $30" for "the product of $25" in par. (A) of clause (1), and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care" for "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose" in clause (3).

1954—Subsec. (b). Act Sept. 1, 1954, § 303 (b), substituted "subsection (a)" for "clause (1) of subsection (a)", wherever appearing, substituted "such subsection" for "such clause" in par. (1), and struck out "increased by five per centum" at the end of par. (3).

Subsec. (b)(1). Act Sept. 1, 1954, § 303(a), substituted the words "the State's proportionate share" for "one-half."

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, § 302(a) changed the basis for computation of the Federal portion of old-age assistance.

1948—Subsec. (a). Act June 14, 1948, substituted $50 for $45 and $20 for $15.

1946—Subsec. (a). Act Aug. 10, 1946, § 501(a), increased the maximum monthly State expenditure for an individual to which the Federal Government will contribute from $40 to $45, increased the Federal contribution for assistance from one-half the State's expenditure to two-thirds the State's expenditure up to $15 monthly per individual plus one-half the State's expenditure over $15 and changed the Federal contribution for administration from 5 percent of the Federal contribution for assistance to one-half the State expenditure for administration.

Subsec. (b). Act Aug. 10, 1946, § 501(b), changed references to clause (1) of subsec. (a) to refer to the entire subsection, substituted "the State's proportionate share" for "one-half" in par. (1) and struck out "increased by 5 per centum" at end of par. (3).

1939—Act Aug. 10, 1939, amended section generally, including the substitution of $40 for $30 in subsec. (a).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 212(e) of Pub. L. 90-248 provided that: "The amendments made by the preceding subsections of this section [to sections 303(a)(4)(D), 1203(a)(3)(D), 1353(a)(3)(D), and 1383(a)(4)(D) of this title] shall take effect January 1, 1968."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as a note under section 302 of this title.

Section 401(f) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (a)(1) of this section and sections 603(a)(1), 1203(a)(1), 1353(a), (1), and 1383(a)(1) of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, IV, X, XIV, or XVI of the Social Security Act [subchapter I, IV, X, XIV, or XVI of this chapter]."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(d) of Pub. L. 87-543 provided that: "The amendments made by sections 109 and 132 (other than subsections (d) and (e) thereof) [amending sections 303(a) (1), (2), 606(b), 1203(a) (1), (2) and 1353(a) (1), (2) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter], as the case may be, made after September 30, 1962."

Section 202(f) of Pub. L. 87-543 provided that: "The amendments made by section 101(a) [amending sections 303(a)(4), 603(a) (1)—(3), 1203(a)(3) and 1353(a)(3) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapters I, IV, X, or XIV of this chapter], as the case may be, made after August 31, 1962. The amendments made by section 101(b) [adding sections 303 (a)(5), (c), 603 (a)(4), (c), 1203 (a)(4), (c) and 1353 (a)(4), (e) of this title and amending sections 303(a)(4), 603(a)(3), 608(d), 609(b), 1203(a)(3) and 1353(a)(3) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapters I, IV, X, or XIV of this chapter], as the case may be, made after June 30, 1963."

EFFECTIVE DATE OF 1961 AMENDMENTS

Section 303(e) of Pub. L. 87-64, as amended by Pub. L. 87-543, title I, §132(e), July 25, 1962, 76 Stat. 196, provided that: "The amendments made by subsections (a), (b), and (c) of this section [to subsec. (a) of this section and sections 1203(a) and 1353(a) of this title] shall apply only in the case of expenditures made after September 30, 1961, and before October 1, 1962, under a State plan approved under title I, X, or XIV, as the case may be, of the Social Security Act [subchapters I, X or XIV of this chapter]."

Section 5(c) of Pub. L. 87-31 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a)(1)(C) and (a)(2)(B) of this section] shall apply in the case of expenditures made after June 30, 1961, under a State plan approved under title I of the Social Security Act [this subchapter]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsecs. (a) and (b)(2)(B) of this section by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 512 of Pub. L. 85-840 provided that:

"Notwithstanding the provisions of sections 305 and 345 of the Social Security Amendments of 1956, as amended [set out as note under this section], the amendments made by sections 501, 502, 503, 504, 505, and 506 [to subsec. (a) of this section and sections 603 (a), 1203 (a), 1301 (a) (1), (8) and 1353 (a) of this title] shall be effective—

"(1) in the case of money payments, under a State plan approved under title I, IV, X, or XIV of the Social Security Act, for months after September 1958, and

"(2) in the case of assistance in the form of medical or any other type of remedial care, under such a plan, with respect to expenditures made after September 1958. The amendment made by section 506 [to section 1301 (a) (1) of this title] shall also become effective, for pur-

poses of title V of the Social Security Act [subchapter V of this chapter], for fiscal years ending after June 30, 1959. The amendments made by section 507 [to section 1308 of this title] shall be effective for fiscal years ending after June 30, 1958. The amendment made by section 508 [to section 1304 of this title] shall be effective for fiscal years ending after June 30, 1959. The amendment made by section 510 shall become effective October 1, 1958."

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Section 345 of part V of title III of act Aug. 1, 1956, provided that: "The amendments made by this part [by sections 341—344 of act Aug. 1, 1956, to sections 303 (a), 603 (a), 1203 (a), and 1353 (a) of this title] shall be effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 305 of part I of title III of act Aug. 1, 1956, as amended by Pub. L. 85-110, July 17, 1957, 71 Stat. 308, provided that:

"(a) Except as provided in subsection (b), the amendments made by this part [to subsec. (a) of this section and sections 603 (a), 1203 (a) and 1353 (a) of this title] shall become effective July 1, 1957.

"(b) The amendments made by any section of this part shall not apply to any State (as defined in section 1101 of the Social Security Act [section 1301 of this title] for purposes of title I thereof [subchapter I of this chapter]) for any fiscal year for which there is in effect an election by it not to have the amendments made by such section apply to it. Any such election shall be in effect for a fiscal year only if notice of the election has been filed with the Secretary of Health, Education, and Welfare at some time prior to May 16 of the preceding fiscal year, except that any such election shall be in effect for the fiscal year beginning July 1, 1957, if notice of the election is filed with the Secretary prior to August 1, 1957. An election by a State under this subsection shall continue in effect until the close of any fiscal year designated in a notice of termination of such election which is filed with the Secretary of Health, Education, and Welfare prior to May 16 of such year. Elections hereunder shall be made, and notices thereof and notices of termination shall be filed, on such form or forms and in such manner as the Secretary of Health, Education, and Welfare may prescribe."

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Section 8 (e) of act July 18, 1952, as amended by act Sept. 1, 1954, § 301, provided that: "The amendments made by this section [to sections 303 (a), 603 (a), 1203 (a), and 1353 (a) of this title] shall be effective for the period beginning October 1, 1952, and ending with the close of September 30, 1956, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this Act [July 18, 1952] had not been enacted." See, also, effective and termination date note above.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 302 (a) of act Aug. 28, 1950, provided that the amendment of subsection (a) shall take effect as of Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 (d) of act June 14, 1948, provided that the amendment of subsec. (a) of this section by section 3 (a) of act June 14, 1948, shall become effective on Oct. 1, 1948.

TERMINATION DATE OF 1946 AMENDMENTS

Section 504 of act Aug. 10, 1946, as amended by act Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794, provided that amendments to this section and sections 603 and 1203 of this title by sections 501, 502, and 503 of that act shall be effective with respect to the period commencing Oct. 1, 1946, and ending on June 30, 1950.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 102 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of the 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board," and "he", "him", or "his" or "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2, § 4. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, § 1(a), set out in the Appendix to Title 5.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89-97, set out as a note under section 1396b of this title.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI of this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543, set out as a note under section 1383 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 643, 1315, 1317, 1318, 1319, 1396a, 1396b, 3534 of this title; title 25 section 639.

§ 304. Stopping payment on deviation from required provisions of plan or failure to comply therewith.

In the case of any State plan which has been approved under this subchapter by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 302(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 302(a) of this title to be included in the plan;

the Secretary of Health, Education, and Welfare shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there

is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title I, § 4, 49 Stat. 622; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 13, 1960, Pub. L. 86–778, title VI, § 601(e), 74 Stat. 991; Jan. 2, 1968, Pub. L. 90–248, title II, § 245, 81 Stat. 918.)

AMENDMENTS

1968—Pub. L. 90–248 inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

1960—Pub. L. 86–778 substituted "State plan which has been approved under this subchapter" for "State plan for old-age assistance which has been approved."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86–778 effective Oct. 1, 1960, see section 604 of Pub. L. 86–778, set out as a note under section 301 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan. No. 2. See note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 305. Appropriation.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, Title I, § 5, 49 Stat. 622, made an appropriation for the fiscal year ending June 30, 1936.

§ 306. Definitions.

(a) For the purposes of this subchapter, the term "old-age assistance" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for assistance) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution). Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 302 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such assistance through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of old-age assistance to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) of this subsection for any individual with respect to whom it is made.

(b) For purposes of this subchapter, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals sixty-five years of age or older who are not recipients of old-age assistance (except, for any month, for recipients of old-age assistance who are admitted to or discharged from a medical institution during such month) but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;

(2) skilled nursing-home services;

(3) physicians' services;

(4) outpatient hospital or clinic services;

(5) home health care services;

(6) private duty nursing services;

(7) physical therapy and related services;

(8) dental services;

(9) laboratory and X-ray services;

(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;

(11) diagnostic, screening, and preventive services; and

(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution).

(c) For purposes of this subchapter, the term "Federal medical percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (i) the Federal medical percentage shall in no case be less than 50 per centum or more than 80 per centum, and (ii) the Federal medical percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1301(a)(8) of this title (other than the proviso at the end thereof); except that the Secretary shall, as soon as possible after September 13, 1960, determine and promulgate the Federal medical percentage for each State—

(1) for the period beginning October 1, 1960, and ending with the close of June 30, 1961, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1301(a)(8) of this title) for such State for the fiscal year ending June 30, 1961 (which promulgation of the Federal medical percentage shall be conclusive for such period), and

(2) for the period beginning July 1, 1961, and ending with the close of June 30, 1963, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1301(a)(8) of this title) for such State for such period (which promulgation of the Federal medical percentage shall be conclusive for such period).

(Aug. 14, 1935, ch. 531, title I, § 6, 49 Stat. 622; Aug. 10, 1939, ch. 666, title I, § 103, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title III, pt. 1, § 303(a), 64 Stat. 549; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(f), 74 Stat. 991; July 25, 1962, Pub. L. 87-543, title I, § 156(a), 76 Stat. 207; July 30, 1965, Pub. L. 89-97, title II, §§ 221(a) (1), (2), 222(a), title IV, § 402(a), 79 Stat. 356, 360, 415.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-97, § 221(a)(1), deleted from the definition of "old-age assistance" the exclusion of (1) payments to or medical care in behalf of any individual who is a patient in an institution for tuberculosis or mental diseases, or (2) payments to any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or (3) medical care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

Pub. L. 89-97, § 402(a), extended the definition of "old-age assistance" to include payments made on behalf of the recipient to an individual who (as determined in accordance with the standards prescribed by the Secretary) is interested in or concerned with the welfare of the recipient and added an enumeration of the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs, special efforts to protect welfare, periodic review, and opportunity for fair hearing.

Subsec. (b). Pub. L. 89-97, §§ 221(a)(2), 222(a), deleted from the provision at end of clause (12) excluding certain payments from definition of "medical assistance for the aged" payments with respect to care or services for any individual who is a patient in an institution for tuberculosis or mental diseases or for any individual who is a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, for forty-two days and inserted in the text preceding clause (1) "(except, for any month, for recipients of old-age assistance who are admitted to or discharged from a medical institution during such month)" following "who are not recipients of old-age assistance", respectively.

1962—Subsec. (a). Pub. L. 87-543, § 156 (a)(1), inserted "(if provided in or after the third month before the month in which the recipient makes application for assistance)" preceding "medical care."

Subsec. (b). Pub. L. 87-543, § 156(a)(2), inserted "(if provided in or after the third month before the month in which the recipient makes application for assistance)" following "care and services."

1960—Subsec. (a). Pub. L. 86-778, § 601(f) (1), (2), designated existing provisions as subsec. (a), and inserted provisions therein excluding from the definition "old-age assistance" any care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in an institution, as a result of such diagnosis, for forty-two days.

Subsecs. (b), (c). Pub. L. 86-778, § 601(f)(2), added subsecs. (b) and (c).

1950—Act Aug. 28, 1950, redefined "old-age assistance".

1939—Act Aug. 10, 1939, inserted "needy" preceding "individuals who".

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as a note under section 302 of this title.

Section 222(c) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (b) of this section and section 1385(b) of this title] shall apply in the case of expenditures under a State plan approved under title I or XVI of the Social Security Act [subchapter I or XVI of this chapter] with respect to care and services provided under such plan after June 1965."

Section 402(e) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (a) of this section and sections 1206, 1355, and 1385(a) of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, X, XIV or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter]."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 156(e) of Pub. L. 87-543 provided that: "The amendments made by this section [to sections 306 (a), (b), 606(b), 1206 and 1355 of this title] shall apply in the case of applications made after September 30, 1962, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 88-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 303 (b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) [to this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 6 of the Social Security Act as so amended [clauses (a) or (b) of this section] shall, in the case of any of such individuals

who are not patients in a public institution, be effective July 1, 1952."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 1383 of this title.

SUBCHAPTER II.—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

AMENDMENTS

1956—Act Aug. 1, 1956, ch. 836, title I, § 103 (i), 70 Stat. 824, included disability insurance benefits in subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 907, 1301a, 1395c, 1395v, 1395gg of this title and in title 5 sections 8141, 8311; title 26 section 401; title 38 sections 412, 415, 503, 3005.

§ 401. Federal old-age and survivors insurance trust fund and Federal disability insurance trust fund.

(a) There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund." The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, and, in addition, such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939 (and covered into the Treasury), which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939 which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939 with respect to wages (as defined in section 1426 of Title 26, Internal Revenue Code of 1939), and by chapter 21 (other than sections 3101(b) and 3111(b)) of Title 26, Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of Title 26, Internal Revenue Code of 1954), reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of Title 26, Internal Revenue Code of 1939, after December 31, 1950, or to the Secretary of the Treasury or his delegates pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of Title 26, Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of Title 26, Internal Revenue Code of 1939), and by chapter 2 (other than section 1401(b)) of Title 26, Internal Revenue Code of 1954, with respect to self-employment income (as defined in section 1402 of Title 26, Internal Revenue Code of 1954) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury or his delegate on tax returns under subtitle F of Title 26, Internal Revenue Code of 1954, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter (other than section 1401 (b)) to such self-emploment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

The amounts appropriated by clauses (3) and (4) of this subsection shall be transferred from time to time from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) of this section shall be transferred from time to time from the general fund in the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, paid to or deposited in to the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection.

(b) There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) one-half of 1 per centum of the wages (as defined in section 3121 of Title 26, Internal

Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, and (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) (A) three-eighths of 1 per centum of the amount of self-employment income (as defined in section 1402 of Title 26, Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of Title 26, Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, and (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(c) With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this subchapter called the "Trust Funds") there is created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this subchapter called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this subchapter called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small;

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivors insurance and Federal-State unemployment compensation program; and

(5) Review the general policies followed in managing the Trust Funds, and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed.

The report provided for in paragraph (2) of this subsection shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such report shall also include an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of public-debt obligation for purchase by the Trust Funds. Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt

obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be credited to and form a part of the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, respectively.

(g)(1) (A) There are authorized to be made available for expenditure, out of any or all of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by subchapter XVIII of this chapter), such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this subchapter and subchapter XVIII of this chapter for which the Secretary of Health, Education, and Welfare is responsible. During each fiscal year or after the close of such fiscal year (or at both times), the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this subchapter and subchapter XVIII of this chapter during the appropriate part or all of such fiscal year in order to determine the portion of such costs which should be borne by each of the Trust Funds and shall certify to the Managing Trustee the amount, if any, which should be transferred among such Trust Funds in order to assure that each of the Trust Funds bears its proper share of the costs incurred during such fiscal year for the part of the administration of this subchapter and subchapter XVIII of this chapter for which the Secretary of Health, Education, and Welfare is responsible. The Managing Trustee is authorized and directed to transfer any such amount (determined under the preceding sentence) among such Trust Funds in accordance with any certification so made.

(B) The Managing Trustee is directed to pay from the Trust Funds into the Treasury the amounts estimated by him which will be expended, out of moneys appropriated from the general funds in the Treasury, during each calendar quarter by the Treasury Department for the part of the administration of this subchapter and subchapter XVIII of this chapter for which the Treasury Department is responsible and for the administration of chapters 2 and 21 of Title 26. Such payments shall be covered into the Treasury as repayment to the account for reimbursement of expenses incurred in connection with such administration of this subchapter and subchapter XVIII of this chapter and chapters 2 and 21 of Title 26.

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes imposed under section 3101(a) which are subject to refund under section 6413(c) of Title 26, Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of Title 26, Internal Revenue Code of 1954) paid after December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of Title 26, Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) of this subsection shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(h) Benefit payments required to be made under section 423 of this title, and benefit payments required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, shall be made only from the Federal Disability Insurance Trust Fund. All other benefit payments required to be made under this subchapter (other than section 426 of this title) shall be made only from the Federal Old-Age and Survivors Insurance Trust Fund. (Aug. 14, 1935, ch. 531, title II, § 201, 49 Stat. 622; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Feb. 25, 1944, ch. 63, title IX, § 902, 58 Stat. 93; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title I, § 109(a), 64 Stat. 521; Aug. 1, 1956, ch. 836, title I, § 103(e), 70 Stat. 819; Aug. 28, 1958, Pub. L. 85-840, title II, § 205(a), 72 Stat. 1021; Sept. 22, 1959, Pub. L. 86-346, title I, § 104(2), 73 Stat. 622; Sept. 13, 1960, Pub. L. 86-778, title VII, § 701(a—e), 74 Stat. 992; July 30, 1965, Pub. L. 89-97, title I, § 108(a), title III, §§ 305, 327, 79 Stat. 338, 370, 400; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 110, 169, 81 Stat. 837, 875; Dec. 30, 1969, Pub. L. 91-172, title X, § 1005, 83 Stat. 741.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (d), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c-1, and sections 757c-2, 757c-3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1969—Subsec. (b)(1). Pub. L. 91-172, § 1005(a), inserted reference to wages paid before Jan. 1, 1969, and added provision for the appropriation of amounts equal to 1.10 per centum of wages paid after Dec. 31, 1969.

Subsec. (b)(2). Pub. L. 91-172, § 1005(b), inserted reference to self-employment income before Jan. 1, 1970,

and added provision for the appropriation of 0.825 of 1 percent of the amount of self-employment income for taxable years beginning after Dec. 31, 1969.

1968—Subsec. (b)(1). Pub. L. 90-248, § 110(a) designated existing provisions as cls. (A) and (B), inserted "and before January 1, 1968," after "1965," in cl. (B), and added Cl. (C).

Subsec. (b)(2). Pub. L. 90-248, § 110(b), designated existing provisions as cls. (A) and (B), inserted "and before January 1, 1968, and" after "1965," in cl. (B), and added cl. (C).

Subsec. (c)(2). Pub. L. 90-248, § 169(a), substituted "April" for "March".

Subsec. (c). Pub. L. 90-248, § 169(b), added penultimate sentence for inclusion in reports of board of trustees to Congress of an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries.

1965—Subsec. (a)(3). Pub. L. 89-97, § 108(a)(1), inserted "(other than sections 3101(b) and 3111(b)) following "chapter 21" in two instances.

Subsec. (a)(4). Pub. L. 89-97, § 108(a)(2), inserted "(other than section 1401(b))" following "chapter 2" and "such subchapter or chapter".

Subsec. (b)(1). Pub. L. 89-97, § 305(a), inserted "and before January 1, 1966," following "December 31, 1956," and "and 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and so reported," following "1954,".

Subsec. (b)(2). Pub. L. 89-97, § 305(b), inserted after "December 31, 1956," the following "and before January 1, 1966, and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965,".

Subsec. (c). Pub. L. 89-97, § 327, extended from once each six months to once each calendar year the minimum number of times the Board of Trustees must meet.

Subsec. (g)(1). Pub. L. 89-97, § 108(a)(3), included the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund among the Trust Funds available for reimbursement of the Treasury for administrative costs of this subchapter and subchapter XVIII of this chapter, deleted references to administrative costs of subchapter VIII of this chapter and subchapter E of chapter 1 and subchapter 9 of Title 26, Internal Revenue Code of 1939, and also provided for adjustment among the Trust Funds during each fiscal year so that the Funds bear the proportionate share of the administration costs.

Subsec. (g)(2). Pub. L. 89-97, § 108(a)(4), inserted "imposed under section 3101(a)" following "the amount estimated by him as taxes".

Subsec. (h). Pub. L. 89-97, § 108(a)(5), inserted "(other than section 426 of this title)" following "this subchapter".

1960—Subsec. (c). Pub. L. 86-778, § 701(a—c), required the Board of Trustees to meet not less frequently than once each six months, eliminated provisions from cl. (3) which required the Board to report immediately to the Congress whenever the Board is of the opinion that during the ensuing five fiscal years either of the Trust Funds will exceed three times the highest annual expenditures from such Trust Fund anticipated during that five-fiscal-year period, and added cl. (5).

Subsec. (d). Pub. L. 86-778, § 701(d), substituted "shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month" for "bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt that are not due or callable until after the expiration of five years from the date of original issue", and substituted provisions authorizing the purchase of other interest-bearing obligations when the Managing Trustee determines that it is in the public interest for provisions which authorized the issuance of obligations by the Trust Funds only if the Managing Trustee determined that the purchase of other obligations was not in the public interest.

Subsec. (e). Pub. L. 86-778, § 701(e), substituted "public-debt obligations" for "special obligations" in two instances.

1959—Subsec. (d). Pub. L. 86-346 substituted "on original issue at the issue price" for "on original issue at par."

1958—Subsec. (h). Pub. L. 85-840 provided that benefit payments required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits be made only from the Federal Disability Insurance Trust Fund.

1956—Act Aug. 1, 1956, amended section generally by inserting references to taxes imposed by the Internal Revenue Code of 1954, substituting "Secretary of Health, Education, and Welfare" for "Federal Security Administrator," creating the Federal Disability Insurance Trust Fund, requiring obligations issued for purchase by the Trust Funds to have maturities fixed with due regard for the needs of the Trust Funds, authorizing to be made available for expenditure out of the Trust Funds such amounts as Congress deems necessary to pay costs of administration of subchapter, and requiring the Secretary of Health, Education, and Welfare to analyze costs of administration so that each Trust Fund may be charged with its proper share.

1950—Subsec. (a). Act Aug. 28, 1950, § 109(a)(1)—(3), substituted "such amounts as may be appropriated to, or deposited in, the Trust Fund" for "such amounts as may be appropriated to the Trust Fund" in the second sentence, simplified the accounting and collection processes required for determining the amounts appropriated to the trust fund, as set out in the third sentence, and struck out the fourth sentence authorizing the appropriation of additional funds.

Subsec. (b). Act Aug. 28, 1950, § 109(a)(4)—(8), substituted "Federal Security Administrator" for "Chairman of the Social Security Board", changed the filing date for the annual report from the first day of each regular session of Congress to March 1 of each year, added par. (4), added sentence to require the report to be printed as a House document, and made Commissioner of Social Security the Secretary of the Board of Trustees.

Subsec. (f). Act. Aug. 28, 1950, § 109(a)(9), changed reference in text from Title II of the Federal Insurance Contributions Act to subchapter A of chapter 9 and subchapter E of chapter 1 of Title 26 to avoid confusion and to include the new provisions of Title 26 relating to the collection of taxes from the self-employed.

1944—Subsec. (a). Act Feb. 25, 1944, added a sentence authorizing the appropriation of additional funds.

1939—Act Aug. 10, 1939, amended section generally.

Effective Date of 1960 Amendment

Section 701(f) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (c), (d) and (e) of this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Sept. 13, 1960]."

Effective Date of 1958 Amendment

Amendment of subsec. (h) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958, see section 207(a) of Pub. L. 85-840, set out as a note under section 416 of this title.

Effective Date of 1939 Amendment

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of such act.

Short Title of 1969 Amendment

Section 1001 of Pub. L. 91-172 provided that: "This title [amending this section and sections 402, 403, 414, 427 and 428 of this title, and enacting provisions set out as notes under this section and sections 402, 403, 415 and 427

of this title] may be cited as the 'Social Security Amendments of 1969'."

SHORT TITLE OF 1965 AMENDMENT

Section 300 of Pub. L. 89-97 provided that: "This title [which enacted sections 424a and 427 of this title and section 6053 of Title 26, amended sections 401—406, 409—411, 413, 415—418, 422, 423, 425, and 1306 of this title, sections 451, 1401, 1402, 3101, 3102, 3111, 3121, 3122, 3125, 3401, 3402, 6051, 6205, 6413, 6652, and 6674 of Title 26, and sections 228a and 228e of Title 45, enacted provisions set out as notes under sections 402, 403, 405, 410, 411, 415, 416, 418, 424, 424a, and 427 of this title and sections 1401, 1402, 3121, and 6053 of Title 26, and amended provisions set out as notes under sections 415 and 418 of this title and section 3121 of Title 26] may be cited as the 'Old-Age, Survivors, and Disability Insurance Amendments of 1965'."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

In subsections (b) and (f), "Federal Security Administrator" was substituted for "Chairman of the Social Security Board" and "Social Security Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

TAXES ON SERVICES RENDERED BY EMPLOYEES OF INTERNATIONAL ORGANIZATIONS PRIOR TO JAN. 1, 1946

Section 5(b) of act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, prohibited collection of tax under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act with respect to services rendered prior to January 1, 1946, which were described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code of 1939, and authorized refund of taxes collected.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 417, 418, 421, 1395i, 1395t of this title; title 20 section 880b-2; title 26 section 3121.

§ 401a. Advisory Council on Social Security Financing.

(a) There is established an Advisory Council on Social Security Financing for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund and of the Federal Disability Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program.

(b) The Council shall be appointed by the Secretary after February 1957 and before January 1958 without regard to the civil-service laws and shall consist of the Commissioner of Social Security, as chairman, and of twelve other persons who shall, to the extent possible, represent employers and employees in equal numbers, and self-employed persons and the public.

(c) (1) The Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Members of the Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding $50 per day; and shall be entitled to receive actual and necessary traveling expenses and per diem in lieu of subsistence while so serving away from their places of residence.

(d) The Council shall make a report of its findings and recommendations (including recommendations for changes in the tax rates in sections 1401, 3101, and 3111 of Title 26, Internal Revenue Code of 1954) to the Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, such report to be submitted not later than January 1, 1959, after which date such Council shall cease to exist. Such findings and recommendations shall be included in the annual report of the Board of Trustees to be submitted to the Congress not later than March 1, 1959.

(e) Repealed. Pub. L. 89-97, title I, § 109(b), July 30, 1965, 79 Stat. 340.

(f) The Advisory Council appointed under subsection (e) of this section during 1963 shall, in addition to the other findings and recommendations it is required to make, include in its report its findings and recommendations with respect to extensions of the coverage of the old-age, survivors, and disability insurance program, the adequacy of benefits under the program, and all other aspects of the program. (Aug. 1, 1956, ch. 836, title I, § 116, 70 Stat. 833; Sept. 13, 1960, Pub. L. 86-778, title VII, § 704, 74 Stat. 994; July 30, 1965, Pub. L. 89-97, title I, § 109(b), 79 Stat. 340.)

REFERENCE IN TEXT

The civil-service laws, referred to in subsec. (b), are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

Section was not enacted as part of Title II of the Social Security Act which comprises this subchapter.

AMENDMENTS

1965—Subsec. (e). Pub. L. 89-97 repealed subsec. (e) which provided for the appointment by the Secretary in 1963, 1966, and every fifth year thereafter of an Advisory Council on Social Security Financing to review the status of Federal Old-Age and Survivors Insurance Trust Fund and of the Federal Disability Insurance Trust Fund in relation to long-term commitments of the old-age, survivors, and disability insurance program, provided for its composition, issuance of reports to Congress and its termination. The subject matter is now covered by section 907 of this title.

1960—Subsec. (e). Pub. L. 86-778, § 704(a), substituted "During 1963, 1966, and every fifth year thereafter, the Secretary shall appoint" for "Not earlier than three years and not later than two years prior to January 1 of the first year for which each ensuing scheduled increase (after 1960) in the tax rates is effective under the provisions of sections 3101 and 3111 of Title 26, Internal Revenue Code of 1954, the Secretary shall appoint" and "January 1 of the second year after the year in which it is appointed" for "January 1 of the year preceding the year in which such scheduled change in the tax rates occurs."

Subsec. (f). Pub. L. 86-778, § 704(b), added subsec. (f).

EFFECTIVE DATE OF 1965 AMENDMENT

Section 109(b) of Pub. L. 89-97 provided in part that the repeal of subsec. (e) by Pub. L. 89-97 shall be effective Jan. 1, 1966.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

§ 402. Old-age and survivors insurance benefit payments.

(a) Old-age insurance benefits.

Every individual who—

(1) is a fully insured individual (as defined in section 414 (a) of this title),

(2) has attained age 62, and

(3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65,

shall be entitled to an old-age insurance benefit for each month, beginning with the first month after August 1950 in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies. Except as provided in subsection (q) of this section, such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 415 (a) of this title) for such month.

(b) Wife's insurance benefits.

(1) The wife (as defined in section 416(b) of this title) and every divorced wife (as defined in section 416(d) of this title) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

(A) has filed application for wife's insurance benefits,

(B) has attained age 62 or (in the case of a wife) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual,

(C) in the case of a divorced wife, is not married,

(D) in the case of a divorced wife, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from such individual, or was receiving substantial contributions from such individual pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from such individual—

(i) if he had a period of disability which did not end before the month in which he became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time he became entitled to such benefits, or

(ii) if he did not have such a period of disability, at the time he became entitled to old-age insurance benefits, and

(E) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s) of this section) be entitled to a wife's insurance benefit for each month, beginning with the first month in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs—

(F) she dies,

(G) such individual dies,

(H) in the case of a wife, they are divorced and either (i) she has not attained age 62, or (ii) she has attained age 62 but has not been married to such individual for a period of 20 years immediately before the date the divorce became effective,

(I) in the case of a divorced wife, she marries a person other than such individual,

(J) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

(K) she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(L) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsection (q) of this section, such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.

(3) In the case of any divorced wife who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d) of this section,

such divorced wife's entitlement to benefit under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s) of this section), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(c) Husband's insurance benefits.

(1) The husband (as defined in section 416(f) of this title) of an individual entitled to old-age or disability insurance benefits, if such husband—

(A) has filed application for husband's insurance benefits.

(B) has attained age 62,

(C) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual—

(i) if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits, or

(ii) if she did not have such a period of disability, at the time she became entitled to such benefits,

and filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, as the case may be, or, if she did not have such a period, two years after the month in which she became entitled to such benefits, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of his wife,

shall be entitled to a husband's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) The provisions of subparagraph (C) of paragraph (1) of this subsection shall (subject to subsection (s) of this section) not be applicable in the case of any husband who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of this section;

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of this section; or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any) would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity section 228e of Title 45.

(3) Except as provided in subsection (q) of this section, such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month.

(d) Child's insurance benefits.

(1) Every child (as defined in section 416(e) of this title) of an individual entitled to old-age or disability insurance benefits or of an individual who dies a fully or currently insured individual, if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 423(d) of this title) which began before he attained the age of 18, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits.

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding whichever of the following first occurs—

(D) the month in which such child dies, marries, or is adopted (except for adoption by a stepparent, grandparent, aunt, uncle, brother, or sister subsequent to the death of such fully or currently insured individual),

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month,

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22, or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father or his mother or adopting mother at the time specified in paragraph (1)(C) of this subsection unless, at such time, such individual

was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h)(2)(B) or section 416(h)(3) of this title shall be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather or a stepmother at the time specified in paragraph (1)(C) of this subsection, if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather or stepmother.

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 423(a) of this title, or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 423(a) of this title or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423(a) of this title or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 423(a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of 22 if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs: The first month during no part of which he is a full-time student, the month in which he attains the age of 22, or the first month in which an event specified in paragraph (1)(D) occurs.

(7) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations prescribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a nonaccredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(8) In the case of—

(A) an individual entitled to disability insurance benefits, or

(B) an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1)(C) of this subsection unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D) was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual most recently became entitled to disability insurance benefits, but only if—

(i) proceedings for such adoption of the child had been instituted by such individual in or before the month in which began the period of disability of such individual which still exists at the time of such adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or

(ii) such adopted child was living with such individual in such month; or

(E) was legally adopted by such individual—

(i) in an adoption which took place under the supervision of a public or private child placement agency,

(ii) in an adoption decreed by a court of competent jurisdiction within the United States,

(iii) on a date immediately preceding which such individual had continuously resided for not less than one year within the United States;

(iv) at a time prior to the attainment of age 18 by such child.

(9) If an individual entitled to old-age insurance benefits (but not an individual included under paragraph (8) of this subsection) adopts a child after such individual becomes entitled to such benefits, such child shall be deemed not to meet the requirements of clause (i) of paragraph (1)(C) of this subsection unless such child—

(A) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(B) was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual became entitled to old-age insurance benefits, but only if—

(i) such child had been receiving at least one-half of his support from such individual for the year before such individual filed his application for old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, for the year before such period of disability began, and

(ii) either proceedings for such adoption of the child had been instituted by such individual in or before the month in which the individual filed his application for old-age insurance benefits or such adopted child was living with such individual in such month.

(e) Widow's insurance benefits.

(1) The widow (as defined in section 416(c) of this title) and every surviving divorced wife (as defined in section 416(d) of this title) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

(B) (i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of this title) which began before the end of the period specified in paragraph (5),

(C) (i) has filed application for widow's insurance benefits, or was entitled, after attainment of age 62, to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 62,

(D) in the case of a surviving divorced wife who was not entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from such individual, or was receiving substantial contributions from such individual (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from such individual—

(i) at the time of his death (or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death), or

(ii) at the time he became entitled to old-age insurance benefits or disability insurance benefits (or, if such individual had a period of disability which did not end before the month in which he became entitled to such benefits, at the time such period began or at the time he became entitled to such benefits), and

(E) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such deceased individual,

shall be entitled to a widow's insurance benefit for each month, beginning with—

(F) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(G) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual, or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month).

(2) Except as provided in subsection (q) of this section and paragraph (4) of this subsection, such widow's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

(3) In the case of a widow or surviving divorced wife who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(4) If a widow, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (3) of this subsection), such marriage shall, for purposes of paragraph (1) of this subsection, be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (2) of this subsection and subsection (q) of this section, such widow's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the husband dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

(5) The period referred to in paragraph (1)(B)(ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased,

and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(6) The waiting period referred to in paragraph (1)(G), in the case of any widow or surviving divorced wife, is the earliest period of six consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the eighteenth month before the month in which her application is filed, or (ii) the first day of the sixth month before the month in which the period specified in paragraph (5) begins.

(f) Widower's insurance benefits.

(1) The widower (as defined in section 416 (g) of this title) of an individual who died a fully insured individual, if such widower—

(A) has not remarried,

a disability (as defined in section 423(d) of the title) which began before the end of the period specified in paragraph (6).

(B) (i) has attained age 62, or (ii) has attained age 50 but has not attained age 62 and is under

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died,

(D) (i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death, or if such individual had a period of disability which did not end prior to the month in which she died, at the time such period began or at the time of her death, and filed proof of such support within two years after the date of such death, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the date of such death, as the case may be, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time she became entitled to old-age or disability insurance benefits or, if such individual had a period of disability which did not end prior to the month in which she became so entitled, at the time such period began or at the time she became entitled to such benefits, and filed proof of such support within two years after the month in which she became entitled to such benefits or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the month in which she became entitled to such benefits, as the case may be, and

(E) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

(F) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(G) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph (7)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (6) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he

remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of his deceased wife, or the third month following the month in which his disability ceases (unless he attains age 62 on or before the last day of such third month).

(2) The provisions of subparagraph (D) of paragraph (1) of this subsection shall (subject to subsection (s) of this section) not be applicable in the case of any individual who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under this subsection or subsection (h) of this section;

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of this section; or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any), would have been entitled to, a widower's child (after attainment of age 18), or parent's insurance annuity under section 228e of Title 45.

(3) Except as provided in subsection (q) of this section and paragraph (5), such widower's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of his deceased wife.

(4) In the case of a widower who marries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage.

(5) If a widower, after attaining the age of 62, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (4) of this subsection), such marriage shall, for purposes of paragraph (1) of this subsection, be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (3) of this subsection and subsection (q) of this section, such widower's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the wife dies or such marriage is otherwise terminated, shall be equal to one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

(6) The period referred to in paragraph (1)(B)(ii), in the case of any widower, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based, or

(B) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he atttains age 62, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(7) The waiting period referred to in paragraph (1)(G), in the case of any widower, is the earliest period of six consecutive calendar months—

(A) throughout which he has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the eighteenth month before the month in which his application is filed, or (ii) the first day of the sixth month before the month in which the period specified in paragraph (6) begins.

(g) Mother's insurance benefits.

(1) The widow and every surviving divorced mother (as defined in section 416(d) of this title) of an individual who died a fully or currently insured individual, if such widow or surviving divorced mother—

(A) is not married,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

(F) in the case of a surviving divorced mother—

(i) at the time of such individual's death (or, if such individual had a period of disability which did not end before the month in which he died, at the time such period began or at the time of such death)—

(I) she was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from such individual, or

(II) she was receiving substantial contributions from such individual (pursuant to a written agreement), or

(III) there was a court order for substantial contributions to her support from such individual,

(ii) the child referred to in subparagraph (E) is her son, daughter, or legally adopted child, and

(iii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income,

shall (subject to subsection (s) of this section) be entitled to a mother's insurance benefit for each month, beginning with the first month after August

1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or surviving divorced mother becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a surviving divorced mother, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced mother is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a widow or surviving divorced mother who marries—

(A) an individual entitled to benefits under subsection (a), (f), or (h) of this section, or under section 423 (a) of this title, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

the entitlement of such widow or surviving divorced mother to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 423(a) of this title or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423(a) of this title or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 423(a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(h) Parent's insurance benefits.

(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual, if such parent—

(A) has attained age 62,

(B) (i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

(C) has not married since such individual's death,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case), and

(E) has filed application for parent's insurance benefits,

shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).

(2)(A) Except as provided in subparagraphs (B) and (C), such parent's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis of such deceased individual's wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C) be equal to 75 percent of the primary insurance amount of such deceased individual.

(C) In any case in which—

(i) any parent is entitled to a parent's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and

(ii) another parent of such deceased individual is entitled to a parent's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's benefits referred to in clause (i) was filed,

the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance benefit of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 403(a) of this title) of the benefit for such month of the parent referred to in clause (i).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

(A) an individual entitled to benefits under this subsection or subsection (b), (e), (f), or (g) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(i) Lump-sum death payments.

Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to $255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living in the same household with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid—

(1) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remains unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any of such burial expenses;

(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

(3) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (1) and (2), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

No payment (except a payment authorized pursuant to clause (1)(A) of the preceding sentence) shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the fifty States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 410(*l*)(1) of this title are applicable, and who is returned to any State, or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

(j) Application for monthly insurance benefits.

(1) An individual who would have been entitled to a benefit under subsections (a)—(g), or (h) of this section for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit under this subchapter for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the

application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(k) Simultaneous entitlement to benefits.

(1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) of this subsection, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2) (A) Any child who under the preceding provisions of this section is entitled for any month to more than one child's insurance benefit shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month, such benefit to be the one based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount.

(B) Any individual (other than an individual to whom subsection (e)(4) or (f)(5) of this section applies) who, under the preceding provisions of this section and under the provisions of section 423 of this title is entitled for any month to more than one monthly insurance benefit (other than an old-age or disability insurance benefit) under this subchapter shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph) would otherwise be entitled for such month. Any individual who is entitled for any month to more than one widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) of this section applies shall be entitled to only one such benefit for such month, such benefit to be the largest of such benefits.

(3) (A) If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q) of this section and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q) of this section).

(B) If an individual is entitled for any month to a widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) of this section applies and to any other monthly insurance benefit under this section (other than an old-age insurance benefit), such other insurance benefit for such month, after any reduction under subparagraph (A) of this paragraph, any reduction under subsection (q) of this section, and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such widow's or widower's insurance benefit after any reduction or reductions under such subparagraph (A) and such section 403(a).

(4) Any individual who, under this section and section 423 of this title, is entitled for any month to both an old-age insurance benefit and a disability insurance benefit under this subchapter shall be entitled to only the larger of such benefits for such month, except that, if such individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

(*l*) Entitlement to survivor benefits under Railroad Retirement Act.

If any person would be entitled, upon filing application therefor to an annuity under section 228e of Title 45 or to a lump-sum payment under subsection (f)(1) of section 228e of Title 45 with respect to the death of an employee (as defined in section 228a of Title 45) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be paid under this section to any person on the basis of the wages and self-employment income of such employee.

(m) Minimum survivor's or dependent's benefit.

In any case in which the benefit of any individual for any month under this section (other than subsection (a)) is, prior to reduction under subsection (k)(3) and subsection (q) of this section, less than the first figure in column IV of the table in section 415 (a) of this title and no other individual is (without the application of subsection (j)(1) of this section) entitled to a benefit under this section for such month on the basis of the same wages and self-employment income, such benefit for such month shall, prior to reduction under subsection (k)(3) and subsection (q) of this section, be increased to the first figure in column IV of the table in section 415 (a) of this title.

(n) Termination of benefits upon deportation of primary beneficiary.

(1) If any individual is (after September 1, 1954) deported under paragraphs (1), (2), (4)—(7), (10)—(12), (14)—(17), or (18) of section 1251 (a) of Title 8 then, notwithstanding any other provisions of this subchapter—

(A) no monthly benefit under this section or section 423 of this title shall be paid to such indi-

vidual, on the basis of his wages and self-employment income, for any month occurring (i) after the month in which the Secretary is notified by the Attorney General that such individual has been so deported, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence.

(B) if no benefit could be paid to such individual (or if no benefit could be paid to him if he were alive) for any month by reason of subparagraph (A), no monthly benefit under this section shall be paid, on the basis of his wages and self-employment income, for such month to any other person who is not a citizen of the United States and is outside the United States for any part of such month, and

(C) no lump-sum death payment shall be made on the basis of such individual's wages and self-employment income if he dies (i) in or after the month in which such notice is received, and (ii) before the month in which he is thereafter lawfully admitted to the United States for permanent residence.

Section 403 (b), (c), and (d) of this title shall not apply with respect to any such individual for any month for which no monthly benefit may be paid to him by reason of this paragraph.

(2) As soon as practicable after the deportation of any individual under any of the paragraphs of section 1251 (a) of Title 8 enumerated in paragraph (1) in this subsection, the Attorney General shall notify the Secretary of such deportation.

(o) Application for benefits by survivors of members and former members of the uniformed services.

In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) of this section upon filing proper application therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for such benefits, on the form described in section 3005 of Title 38, shall satisfy the requirement of such subsection (d), (e), (g), or (h) that an application for such benefits be filed.

(p) Extension of period for filing proof of support and applications for lump-sum death payment.

In any case in which there is a failure—

(1) to file proof of support under subparagraph (C) of subsection (c)(1) of this section, clause (i) or (ii) of subparagraph (D) of subsection (f)(1) of this section, or subparagraph (B) of subsection (h)(1) of this section, or under clause (B) of subsection (f)(1) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, application for a lump-sum death payment under subsection (i) of this section, or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

any proof or application, as the case may be, which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application within such period. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

(q) Reduction of benefit amounts for certain beneficiaries.

(1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, or widower's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for each month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) $\frac{5}{9}$ of 1 percent of such amount if such benefit is an old-age, widow's, or widower's insurance benefit, or $\frac{25}{36}$ of 1 percent of such amount if such benefit is a wife's or husband's insurance benefit, multiplied by

(B) (i) the number of months in the reduction period for such benefit (determined under paragraph (6)), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) the number of months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains retirement age or for any month thereafter.

A widow's or widower's insurance benefit reduced pursuant to the preceding sentence shall be further reduced by—

(C) $\frac{43}{198}$ of 1 percent of the amount of such benefit, multiplied by

(D) (i) the number of months in the additional reduction period for such benefit (determined under paragraph (6)), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains retirement age or for any month thereafter.

(2) If an individual is entitled to a disability insurance benefit for a month after a month for which such individual was entitled to an old-age insurance benefit, such disability insurance benefit, for each month shall be reduced by the amount such old-age insurance benefit would be reduced under paragraphs (1) and (4) for such month had such individual attained age 65 in the first month for which he most recently became entitled to a disability insurance benefit.

(3) (A) If the first month for which an individual both is entitled to a wife's, husband's, widow's, or widower's insurance benefit and has attained age 62 (in the case of a wife's or husband's insurance benefit) or age 50 (in the case of a widow's or widower's insurance benefit) is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains age 65), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's, husband's, widow's, or widower's insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

(B) For any month for which such individual is entitled to an old-age insurance benefit and is not entitled to a disability insurance benefit, such individual's wife's or husband's insurance benefit shall be reduced by the sum of—

(i) the amount by which such old-age insurance benefit is reduced under paragraph (1) for such month, and

(ii) the amount by which such wife's or husband's insurance benefit would be reduced under paragraph (1) for such month, if it were equal to the excess of such wife's or husband's insurance benefit (before reduction under this subsection) over such old-age insurance benefit (before reduction under this subsection).

(C) For any month for which such individual is entitled to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the sum of—

(i) the amount by which such disability insurance benefit is reduced under paragraph (2) for such month (if such paragraph applied to such benefit), and

(ii) the amount by which such wife's, husband's, widow's, or widower's insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's, husband's, widow's, or widower's insurance benefit (before reduction under this subsection) over such disability insurance benefit (before reduction under this subsection).

(D) For any month for which such individual is entitled neither to an old-age insurance benefit nor to a disability insurance benefit, such individual's wife's, husband's, widow's, or widower's insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).

(E) If the first month for which an individual is entitled to an old-age insurance benefit (whether such first month occurs before, with, or after the month in which such individual attains the age of 65) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she attained retirement age, then such old-age insurance benefit shall be reduced by whichever of the following is the larger:

(i) the amount by which (but for this subparagraph) such old-age insurance benefit would have been reduced under paragraph (1), or

(ii) the amount equal to the sum of the amount by which such widow's or widower's insurance benefit was reduced for the month in which such individual attained retirement age and the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(F) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs with or after the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he attained retirement age, then such disability insurance benefit for each month shall be reduced by whichever of the following is larger:

(i) the amount by which (but for this subparagraph) such disability insurance benefit would have been reduced under paragraph (2), or

(ii) the amount equal to the sum of the amount by which such widow's or widower's insurance benefit was reduced for the month in which such individual attained retirement age and the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection).

(G) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs before the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e)(1) of this section in the case of a widow or surviving divorced wife or subsection (f)(1) of this section in the case of a widower, be) entitled to a widow's insurance benefit, this such disability insurance benefit for each month shall be reduced by the amount such widow's or widower's insurance benefit would be reduced under paragraphs (1) and (4) for such month had such individual attained age 62 in the first month for which he most recently became entitled to a disability insurance benefit.

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit for each month shall be computed separately (under paragraph (1) or (3), whichever applies) for the portion of such benefit which constitutes such benefit before any increase described in subparagraph (B), and separately (under paragraph (1) or (3), whichever applies to the benefit being increased) for each such increase. For purposes of determining the amount of the reduction under paragraph (1) or (3) in any such increase, the reduction period and the adjusted reduction period shall be determined as if such increase were a separate benefit to which such individual was entitled for and after the first month for which such increase is effective.

(5) (A) No wife's insurance benefits shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by her with the Secretary, in accordance with regulations prescribed by him, in which she elects to receive wife's insurance benefits reduced as provided in this subsection, or

(ii) for any month in which she has in her care (individually or jointly with the person on whose wages and self-employment income her wife's insurance benefit is based) a child of such person entitled to child's insurance benefits.

(B) Any certificate described in subparagraph (A) (i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 403((c)(2) of this title)—

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by the woman filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62, nor shall it be effective for any month to which subparagraph (A) (ii) applies.

(C) If a woman does not have in her care a child described in subparagraph (A) (ii) in the first month for which she is entitled to a wife's insurance benefit, and if such first month is a month before the month in which she attains age 65, she shall be deemed to have filed in such first month the certificate described in subparagraph (A) (i).

(D) No widow's insurance benefit for a month in which she has in her care a child of her deceased husband (or deceased former husband) entitled to child's insurance benefts shall be reduced under this subsection below the amount to which she would have been entitled had she been entitled for such month to mother's insurance benefits on the basis of her deceased husband's (or deceased former husband's) wages and self-employment income.

(6) For the purposes of this subsection—

(A) the "reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the period—

(i) beginning—

(I) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit, or

(II) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

(III) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

(ii) ending with the last day of the month before the month in which such individual attains retirement age; and

(B) the "additional reduction period" for an individual's widow's or widower's insurance benefit is the period—

(i) beginning with the first day of the first month for which such individual is entitled to such benefit, but only if such individual has not attained age 60 in such first month, and

(ii) ending with the last day of the month before the month in which such individual attains age 60.

(7) For purposes of this subsection, the "adjusted reduction period" or "additional adjusted reduction period" for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period or additional reduction period (as the case may be) prescribed by paragraph (6) for such benefit, excluding from such period—

(A) any month in which such benefit was subject to deductions under section 403(b), 403(c)(1), 403(d)(1), or 422(b) of this title,

(B) in the case of wife's insurance benefits, any month in which she had in her care (individually or jointly with the person on whose wages and self-employment income such benefit is based) a child of such person entitled to child's insurance benefits,

(C) in the case of wife's or husband's insurance benefits, any month for which such individual was not entitled to such benefits because the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability,

(D) in the case of widow's insurance benefits, any month in which the reduction in the amount of such benefit was determined under paragraph (5)(D),

(E) in the case of widow's or widower's insurance benefits, any month before the month in which she or he attained retirement age for which she or he was not entitled to such benefit because of the occurrence of an event that terminated her or his entitlement to such benefits, and

(F) in the case of old-age insurance benefits, any month for which such individual was entitled to a disability insurance benefit.

(8) This subsection shall be applied after reduction under section 403(a) of this title and after application of section 415(g) of this title. If the amount of any reduction computed under paragraph (1), (2), or (3) is not a multiple of $0.10, it shall be reduced to the next lower multiple of $0.10.

(9) For purposes of this subsection, the term "retirement age" means age 65 with respect to an old-age, wife's, or husband's insurance benefit and age 62 with respect to a widow's or widower's insurance benefit.

(r) Presumed filing of application by individuals eligible for old-age insurance benefits and for wife's or husband's insurance benefits.

(1) If the first month for which an individual is entitled to an old-age insurance benefit is a month before the month in which such individual attains age 65, and if such individual is eligible for a wife's or husband's insurance benefit for such first month, such individual shall be deemed to have filed an

application in such month for wife's or husband's insurance benefits.

(2) If the first month for which an individual is entitled to a wife's or husband's insurance benefit reduced under subsection (q) of this section is a month before the month in which such individual attains age 65, and if such individual is eligible (but for subsection (k)(4) of this section) for an old-age insurance benefit for such first month such individual shall be deemed to have filed an application for old-age insurance benefits—

(A) in such month, or

(B) if such individual is also entitled to a disability insurance benefit for such month, in the first subsequent month for which such individual is not entitled to a disability insurance benefit.

(3) For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, he would be entitled to such benefit for such month.

(s) Child aged 18 or over attending school.

(1) For the purposes of subsections (b)(1), (g)(1), (q)(5), and (q)(7) of this section and paragraphs (2), (3), and (4) of section 403(c) of this title, a child who is entitled to child's insurance benefits under subsection (d) of this section for any month, and who has attained the age of 18 but is not in such month under a disability (as defined in section 423(d) of this title) which began before he attained such age, shall be deemed not entitled to such benefits for such month, unless he was under such a disability in the third month before such month.

(2) Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 423(d) of this title) which began before such child attained the age of 18 or had been under such a disability in the third month before the month in which such marriage occurred.

(3) Subsections (c)(2)(B) and (f)(2)(B) of this section, so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence of subsection (c) of section 403 of this title, subsection (f)(1)(C) of section 403 of this title, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 416 of this title shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 423(d) of this title) which began before such child attained the age of 18.

(t) Suspension of benefits of aliens who are outside the United States.

(1) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

For purposes of the preceding sentence, after an individual has been outside the United States for any period of thirty consecutive days he shall be treated as remaining outside the United States until he has been in the United States for a period of thirty consecutive days.

(2) Paragraph (1) of this subsection shall not apply to any individual who is a citizen of a foreign country which the Secretary finds has in effect a social insurance or pension system which is of general application in such country and under which—

(A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and

(B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

(3) Paragraph (1) of this subsection shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 1, 1956.

(4) Paragraph (1) of this subsection shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside, the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 410 (*l*) (2) and (3) of this title) as a member of a uniformed service (as defined in section 410 (m) of this title), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 410 (*l*) (2) of this title), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 410 (*l*) (3) of this title), as a member of a uniformed service (as defined in section 410 (m) of this title), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause, or

(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 228e(k)(1) of Title 45;

except that subparagraphs (A) and (B) of this paragraph shall not apply in the case of any individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies subparagraph (A) but not subparagraph (B) of paragraph (2), or who is a citizen of a foreign country that has no social insurance or pension system of general application if at any time within five years prior to the month in which the Social Security Amendments of 1967 are enacted (or the first month thereafter for which his benefits are subject to suspension under paragraph (1)) payments to individuals residing in such country were withheld by the Treasury Department under section 123 of Title 31.

(5) No person who is, or upon application would be, entitled to a monthly benefit under this section for December 1956 shall be deprived, by reason of paragraph (1) of this subsection, of such benefit or any other benefit based on the wages and self-employment income of the individual on whose wages and self-employment income such monthly benefit for December 1956 is based.

(6) If an individual is outside the United States when he dies and no benefit may, by reason of paragraph (1) or (10) of this subsection, be paid to him for the month preceding the month in which he dies, no lump-sum death payment may be made on the basis of such individual's wages and self-employment income.

(7) Subsection (b), (c), and (d) of section 403 of this title shall not apply with respect to any individual for any month for which no monthly benefit may be paid to him by reason of paragraph (1) of this subsection.

(8) The Attorney General shall certify to the Secretary such information regarding aliens who depart from the United States to any foreign country (other than a foreign country which is territorially contiguous to the continental United States) as may be necessary to enable the Secretary to carry out the purposes of this subsection and shall otherwise aid, assist, and cooperate with the Secretary in obtaining such other information as may be necessary to enable the Secretary to carry out the purposes of this subsection.

(9) No payments shall be made under part A of subchapter XVIII of this chapter with respect to items or services furnished to an individual in any month for which the prohibition in paragraph (1) against payment of benefits to him is applicable (or would be if he were entitled to any such benefits).

(10) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title, for any month beginning after June 30, 1968, to an individual who is not a citizen or national of the United States and who resides during such month in a foreign country if payments for such month to individuals residing in such country are withheld by the Treasury Department under section 123 of Title 31.

(u) Conviction of subversive activities, etc.

(1) If any individual is convicted of any offense (committed after August 1, 1956) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of Title 18, or

(B) section 783, 822, or 823 of Title 50,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 423 of this title is payable to such individual for the month in which he is convicted or for any month thereafter, in determining the amount of any such benefit payable to such individual for any such month, and in determining whether such individual is entitled to insurance benefits under part A of subchapter XVIII of this chapter for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter, and

(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.

(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1) of this subsection, been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.

(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) of this subsection is granted a pardon of the offense by the President of the United States, such additional penalty shall not apply for any month beginning after the date on which such pardon is granted.

(v) Waiver of benefits.

Notwithstanding any other provisions of this subchapter, in the case of any individual who files a waiver pursuant to section 1402(h) of Title 26 and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this subchapter to him, no payments shall be made on his behalf under part A of subchapter XVIII of this chapter, and no benefits or other payments under this subchapter shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver; execpt that, if thereafter such individual's tax exemption under such section 1402(h) ceases to be effective, such waiver shall cease to be applicable in the case of benefits and other payments under this subchapter and part A of suchapter XVIII of this chapter to the extent based on his self-employment income for and after the first taxable year for which such tax exemption ceases to be effective and on his wages for and after the calendar year (if any) which begins in or with the beginning of such taxable year. (Aug.

14, 1935, ch. 531, title II, § 202, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, §§ 402, 403 (a), 404(a), 405(a), 60 Stat. 986, 987; Aug. 28, 1950, ch. 809, title I, § 101(a), 64 Stat. 482; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 14, 1953, ch. 483, § 2, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, §§ 102(i), 105(a), 107, 110(a)-(c), 68 Stat. 1073, 1079, 1083, 1085; Aug. 9, 1955, ch. 685, § 2, 69 Stat. 621; Aug. 1, 1956, ch. 836, title I, §§ 101(a)-(c), 102 (c), (d)(1)-(10), 103(c)(1)-(3), 113, 114(a), 118(a), 121(a), 70 Stat. 807, 810-814, 818, 831, 832, 835, 838; Aug. 1, 1956, ch. 837, title IV, §§ 403(a), 407, 70 Stat. 871, 876; Aug. 30, 1957, Pub. L. 85-238, §§ 1, 3(a)-(g), 71 Stat. 518; Aug. 28, 1958, Pub. L. 85-798, § 1, 72 Stat. 964; Aug. 28, 1958, Pub. L. 85-840, title I, § 101(e), title II, § 205 (b)-(i), title III, §§ 301(a)(1), (b)(1), (c)(1), 303, 304(a)(1), 305(a), 306(a), 307(a)-(e), 72 Stat. 1017, 1021-1024, 1026, 1027, 1029-1032; Sept. 2, 1958, Pub. L. 85-857, § 13(i)(1), 72 Stat. 1265; Sept. 6, 1958, Pub. L. 85-927, § 301, 72 Stat. 1783; June 25, 1959, Pub. L. 86-79, § 32(c)(1), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30(c)(1), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(a)(1), (j)(2)(C), (D), title II, §§ 201(a), (b), 202(a), 203(a), 205(a), (b), 208(d), 211(i)-(*l*), title III, § 301(a), title IV, § 403(d), 74 Stat. 936, 937, 946, 947, 949, 952, 957-959, 1969; June 30, 1961, Pub. L. 87-64, title I, §§ 102 (a), (b), (1), (2)(A), (3), (e), 104(a)-(d), 75 Stat. 131, 134, 136, 138, 139; July 30, 1965, Pub. L. 89-97, title I, § 104(a), title III, §§ 303(d), 304(a)-(j), 306 (a), (b), (c)(1)-(9), 307 (a), (b), 308 (a), (b), (d)(1), (2)(A), (3)-(5), (12), (13), 319(d), 323(a), 324 (a), 328(a), 333(a)-(c), 334 (e), (f), 339(b), 343(a), 79 Stat. 334, 367-379, 392, 397, 398, 400, 403-405, 410, 412; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 103(a)-(d), 104(a)-(c), 112(a), 151(a)-(d) (1), (2), 157(a), (b), 158(c)(1), (2), 162(a)(1), (b)(1), (c)(1), (2), 81 Stat. 828-832, 838, 860, 867, 868, 871; Dec. 30, 1969, Pub. L. 91-172, title X, § 1004(a)-(c), 83 Stat. 741.)

REFERENCES IN TEXT

"Clause (B) of subsection (f)(1) of this section as in effect prior to the Social Security Act Amendments of 1950", and "subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950", referred to in subsec. (p), means such subsections as in effect prior to September 1, 1950, which was the effective date of section 101(a) of act Aug. 28, 1950. See section 101(b) (1), (3) of act Aug. 28, 1950, set out as a note under this section.

Railroad Retirement Act, referred to in the catchline of subsec. (*l*) and in subsec. (t)(4)(E), is classified to sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of Title 45, Railroads.

The month in which the Social Security Amendments of 1967 were enacted, referred to in the exception provision following (t)(4)(E), was Jan. 1968, date of approval of Pub. L. 90-248 being Jan. 2, 1968.

AMENDMENTS

1969—Subsec. (b)(2). Pub. L. 91-172, § 1004(a), removed the $105 ceiling on the insurance benefits of wives.

Subsec. (c)(3). Pub. L. 91-172, § 1004(b), removed the $105 ceiling on the insurance benefits of husbands.

Subsec. (e)(4). Pub. L. 91-172, § 1004(c), removed the $105 ceiling on the insurance benefits of widows.

Subsec. (f)(5). Pub. L. 91-172, § 1004(c), removed the $105 ceiling on the insurance benefits of widowers.

1968—Subsec. (b)(2). Pub. L. 90-248, § 103(a), provided that a wife's insurance benefit may not exceed $105.

Subsec. (c)(1). Pub. L. 90-248, § 157(a)(1), substituted in text preceding subpar. (A) "an individual" for "a currently insured individual (as defined in section 414(b) of this title)".

Subsec. (c)(2). Pub. L. 90-248, § 157(a)(2), substituted in text preceding subpar. (A) "The provisions of subparagraph (C) of paragraph (1) of this subsection" for "The requirement in paragraph (1) of this subsection that the individual entitled to old-age or disability insurance benefits be a currently insured individual, and the provisions of subparagraph (C) of such paragraph".

Subsec. (c)(3). Pub. L. 90-248, § 103(b), provided that a husband's insurance benefit may not exceed $105.

Subsec. (d)(1)(B). Pub. L. 90-248, § 158(c)(1), substituted "section 423(d)" for "section 423(c)".

Subsec. (d)(3). Pub. L. 90-248, § 151(a), inserted in first sentence "or his mother or adopting mother" after "adopting father", and deleted in second sentence, "if such individual is the child's father," following "title shall".

Subsec. (d)(4). Pub. L. 90-248, § 151(b), inserted, "or stepmother" after "stepfather" in two instances.

Subsec. (d)(5)—(8). Pub. L. 90-248, § 151(c), deleted former par. (5) which provided that (1) a child is deemed dependent on his mother or adopting mother if she is currently insured, and (2) a child is deemed dependent on a mother who is not currently insured only if she is contributing one-half of the child's support or, if the child is not living with his father nor being supported by him, only if she is then living with or supporting the child, and redesignated former pars. (6)—(9) as (5)—(8), respectively.

Subsec. (d)(8). Pub. L. 90-248, §§ 112(a), 151(c), added subpar. (E) and redesignated former par. (9) as (8), respectively. Former par. (8) redesignated (7).

Subsec. (d)(9). Pub. L. 90-248, § 151(c), (d)(1), redesignated former par. (10) as (9) and substituted therein "paragraph (8)" for "paragraph (9)". Former par. (9) redesignated (8).

Subsec. (d)(10). Pub. L. 90-248, § 151(c), redesignated former par. (10) as (9).

Subsec. (e)(1), Pub. L. 90-248, § 104(a)(2), set out part of text formerly following supar. (E) after subpar. (G) and inserted therein: "or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month)."

Subsec. (e)(1)(B). Pub. L. 90-248, § 104(a)(1), provided that a widow or surviving divorced wife may become entitled to widow's insurance benefits if she is disabled and her disability began within the period specified in subsec. (e)(5) even though she has not attained age 60.

Subsec. (e)(1)(F). Pub. L. 90-248, § 104(a)(2), designated part of material formerly following subpar. (E) as subpar. (F) and added provision requiring satisfaction with subpar. (B) clause (i).

Subsec. (e)(1)(G). Pub. L. 90-248, § 104(a)(2), added subpar. (G).

Subsec. (e)(4). Pub. L. 90-248, § 103(c), provided that a remarried widow's insurance benefit may not exceed $105.

Subsec. (e)(5), (6). Pub. L. 90-248, § 104(a)(3), added pars. (5) and (6).

Subsec. (f)(1). Pub. L. 90-248, § 157(b)(1), deleted in text preceding subpar. (A) "and currently" preceding "insured individual" and in clause (ii) of subpar. (D) ", and she was a currently insured individual," following "from such individual".

Subsec. (f)(1)(B). Pub. L. 90-248, § 104(b)(1), provided that a dependent widower may become entitled to widower's insurance benefits if he is disabled and his disability began within the specified period even though such individual has not attained age 62.

Subsec. (f)(1). Pub. L. 90-238, § 104(b)(2), set out part of text formerly following subpar. (E) after subpar. (G) and inserted therein: "or the third month following the month in which his disability ceases (unless he attains age 62 on or before the last day of such third month)".

Subsec. (f)(1)(F). Pub. L. 90–248, § 104(b)(2), designated part of text formerly following subpar. (F) as subpar. (F) and added provision requiring satisfaction with subpar. (B) clause (i).

Subsec. (f)(1)(G). Pub. L. 90–248, § 104(b)(2), added subpar. (G).

Subsec. (f)(2). Pub. L. 90–248, § 157(b)(2), substituted in text preceding subpar. (A) "The provisions of subparagraph (D) of paragraph (1) of this subsection" for "The requirement in paragraph (1) of this subsection that the deceased fully insured individual also be a currently insured individual, and the provisions of subparagraph (D) of such paragraph,".

Subsec. (f)(3). Pub. L. 90–248, § 104(b)(3), added reference to subsec. (q).

Subsec. (f)(5). Pub. L. 90–248, § 103(d), provided that a remarried widower's insurance benefit may not exceed $105.

Subsec. (f)(6), (7). Pub. L. 90–248, § 104(b)(4), added pars. (6) and (7).

Subsec. (q). Pub. L. 90–248, § 104(c)(1), substituted "Reduction of benefit amounts for certain beneficiaries" for "Reduction of old-age, disability, wife's, husband's, or widow's insurance benefit amounts" in catchline.

Subsec. (q)(1). Pub. L. 90–248, § 104(c)(2)—(4), substituted "widow's, or widower's" for "or widow's" in text preceding subpar. (A), ", widow's, or widower's" for "or widow's" in subpar. (A), and added subpar. (C) and (D) provisions for further reduction of a widow's or widower's insurance benefit.

Subsec. (q)(3)(A). Pub. L. 90–248, § 104(c)(5), substituted "widow's, or widower's" for "or widow's" wherever appearing, "50" for "60", and inserted "or widower's" after "(in the case of a widow's)".

Subsec. (q)(3)(C). Pub. L. 90–248, § 104(c)(6), substituted "widow's, or widower's" for "or widow's" wherever appearing.

Subsec. (q)(3)(D). Pub. L. 90–248, § 104(c)(7), substituted "widow's, or widower's" for "or widow's".

Subsec. (q)(3)(E). Pub. L. 90–248, § 104(c)(8), inserted "in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower" after "(e)(1) of this section", and "or he" after "she", and substituted "widow's or widower's" for "widow's" wherever appearing.

Subsec. (q)(3)(F). Pub. L. 90–248, § 104(c)(9), inserted 'in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower" after "(e)(1) of this section", and "or he" after "she", and substituted "widow's or widower's" for "widow's".

Subsec. (q)(3)(G). Pub. L. 90–248, § 104(c)(10), inserted "in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower" before "(e)(1) of this section", and "she or" before "he", and substituted "window's or widower's" for "widow's" wherever appearing.

Subsec. (q)(6). Pub. L. 90–248, § 104(c)(11), extended definition of "reduction period" to apply to widower's insurance benefit, added second alternative in subpar. (A)(i)(III) that the reduction period for a widow's or widower's insurance benefit begins with the "first day of the month in which such individual attains age 60, whichever is the later", substituted paragraph "(5)" for "(4)" in item (II) of subpar. (A)(i), and added subpar. (B).

Subsec. (q)(7). Pub. L. 90–248, § 104(c)(12), in text preceding subpar. (A), inserted "or 'additional adjusted reduction period'" after "the 'adjusted reduction period'", "or additional reduction period (as the case may be)" after "the reduction period", and substituted "widow's, or widower's" for "or widow's", and in subpar. (E) substituted "widow's or widower's", "she or he", and "her or his" for "widow's", "she", and "her", respectively.

Subsec. (q)(9). Pub. L. 90–248, § 104(c)(13), added reference to widowers.

Subsec. (s). Pub. L. 90–248, § 158(c)(2), substituted "section 423(d)" for "section 423(c)" in pars. (1)—(3).

Subsec. (s)(2), (3). Pub. L. 90–248, § 151(d)(2), substituted "(d)(5)" for "(d)(6)" in pars. (2),(3).

Subsec. (t)(1). Pub. L. 90–248, § 162(a)(1), provided that "For purposes of the preceding sentence, after an individual has been outside the United States for any period of thirty consecutive days he shall be treated as remaining outside the United States until he has been in the United States for a period of thirty consecutive days."

Subsec. (t)(4). Pub. L. 90–248, § 162(b)(1), provided for exception to application of subpars. (A) and (B) of par. (4).

Subsec. (t)(6). Pub. L. 90–248, § 162(c)(2), included reference to par. (10).

Subsec. (t)(10). Pub. L. 90–248, § 162(c)(1), added par. (10).

1965—Subsec. (b)(1). Pub. L. 89–97, § 308(a), made provisions applicable to divorced wife by inclusion of references to divorced wife in provisions preceding subpar. (A), substituted "such individual" for "her husband" in subpars. (B), (E), (G), (J)—(L); inserted in subpar. (B) "(in the case of a wife)" following "age 62 or"; added subpars. (C) and (D); redesignated former subpar. (C) as (E); in the provisions following subpar. (E), inserted "(subject to subsection (s) of this section)" and deleted "after August 1950" following "beginning with the first month"; designated existing provisions as subpars. (F), (G), (J)—(L); and substituted provisions designated as subpars. (H) and (I) for former provision reading "they are divorced from vinculo matrimonii".

Subsec. (b)(2). Pub. L. 89–97, § 308(a), inserted "(or, in the case of a divorced wife, her former husband)".

Subsec. (b)(3). Pub. L. 89–97, § 308(a), added par. (3).

Subsec. (c)(1). Pub. L. 89–97, § 308(d)(1), substituted "divorced" for "divorced a vinculo matrimonii" in the provisions following subpart (D).

Subsec. (c)(2). Pub. L. 89–97, §§ 306(c)(2), 334(e) inserted in the text preceding subpar. (A) "(subject to subsection (s) of this section)" following "shall", and added subpar. (C).

Subsec. (d)(1). Pub. L. 89–97, §§ 306(a), (b) (1), (2), 323(a)(1), 343(a), inserted in subpar. (B) (i) and (ii) "or was a full-time student and had not attained the age of 22" and "which began before he attained the age of 22", respectively, and substituted "is" for "was" in clause (ii) substituted "preceding whichever of the following first occurs" for "preceding the first month in which any of the following occurs" following provisions of subpar. (C), incorporated existing provisions in subpar. (D) and (E), substituting in such subpar. (E) "but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month" for former provision "and is not under a disability (as defined in section 423(c) of this title), which began before he attained such age", added subpars. (F) and (G), and repealed the second sentence which provided for the termination of entitlement of any child to benefits under this subsection with the month preceding the third month following the month in which he ceases to be under a disability after the month in which he attains age eighteen; struck out the last sentence which related to adoptions by disabled workers; and substituted "uncle, brother, or sister" for "or uncle" in subpar. (D), respectively.

Subsec. (d)(3). Pub. L. 89–97, § 339(b), inserted "or section 416(h)(3)" after "section 416(h)(2)(B)".

Subsec. (d)(6). Pub. L. 89–97, § 306(c)(3), inserted in the text following subpar. (B) "but subject to subsection (s) of this section" following "notwithstanding the provisions of paragraph (1) of this subsection".

Subsec. (d)(6)(A). Pub. L. 89–97, § 308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (d)(7), (8). Pub. L. 89–97, § 306(b)(3), added pars. (7) and (8).

Subsec. (d)(9), (10). Pub. L. 89–97, § 323(a)(2), added pars. (9) and (10).

Subsec. (e)(1). Pub. L. 89–97, §§ 307(a)(1), 308(b)(1), substituted "age 60" for "age 62" in subpar. (B); and inserted references to surviving divorced wife in the provisions preceding subpar. (A), substituted in subpar. (A) "is not married" for "has not remarried", added subpar. (D), redesignated former subpar. (D) as (E) substituted in subpar. (E) and the following provision "such deceased individual" "her deceased husband", and deleted from provisions following subpar. (E) "after August 1950" following "beginning with the first month", respectively.

Subsec. (e)(2). Pub. L. 89–97, §§ 307(a)(2), 308(b)(1), 333(a)(2), inserted the introductory phrase "Except as provided in subsection (q) of this section"; substituted

"such deceased individual" for "her deceased husband"; and inserted "and paragraph (4) of this subsection" immediately preceding the comma, respectively.

Subsec. (e)(3). Pub. L. 89-97, §§ 306(c)(4), 308(b)(2), (3), inserted "but subject to subsection (s) of this section" after "notwithstanding the provisions of paragraph (1)" following subpar. (B); repealed former par. (3) which provided for reinstatement of benefits to a widow if she married a person who died within one year and was not a fully insured individual; and redesignated former par. (4) as (3), and substituted therein "widow or surviving divorced wife" and "widow's or surviving divorced wife's" for "widow" and "widow's", respectively.

Subsec. (e)(4). Pub. L. 89-97, § 333(a)(1), added par. (4). Former par. (4) redesignated (3).

Subsec. (f)(2). Pub. L. 89-97, §§ 306(c)(5), 334(f), inserted in the text preceding subpar. (A) "(subject to subsection (s) of this section)" following "shall", and added subpar. (C).

Subsec. (f)(3). Pub. L. 89-97, § 333(b)(2), substituted "Except as provided in paragraph (5), such" for "Such".

Subsec. (f)(4). Pub. L. 89-97, § 306(c)(6), inserted in the text following subpar. (B) "but subject to subsection (s) of this section" following "notwithstanding the provisions of paragraph (1) of this subsection".

Subsec. (f)(4)(A). Pub. L. 89-97, § 308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (f)(5). Pub. L. 89-97, § 333(b)(1), added par. (5).

Subsec. (g)(1). Pub. L. 89-97, §§ 306(c)(7), 308(d)(3)—(5), inserted "(subject to subsection(s) of this section)" after "shall in the provisions following subpar. (F); substituted in subpar. (A) "is not married" for "has not remarried"; in subpar. (F), substituted "surviving divorced mother" for "former wife divorced", incorporated existing provisions in clauses (i) (other than (I)—(III)), (ii), and (iii), and substituted provisions of clause (i) (I)—(III) for receipt of one-half of support under administrative regulations and substantial contributions pursuant to written agreement or court order for former provision for receipt of one-half of support pursuant to agreements or court order; and substituted "surviving divorced mother" for "former wife divorced" twice in provisions before subpar. (A) and thrice in provisions following subpar. (F), respectively.

Subsec. (g)(3). Pub. L. 89-97, §§ 306(c)(8), 308(d)(5), (13), inserted "but subject to subsection (s) of this section" after "notwithstanding the provisions of paragraph (1)" following subpar. (B), substituted "surviving divorced mother" for "former wife divorced" in two instances, and redesignated former par. (4) as (3), respectively. Pub. L. 89-97, § 308(d)(12), repealed former par. (3) which had provided that:

"In the case of any widow or former wife divorced of an individual—

"(A) who marries another individual, and

"(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not, and upon filing application therefor in the month in which he died would not be, entitled to benefits for such month on the basis of his wages and self-employment income,

the marriage to the individual referred to in clause (A) shall, for purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph or (ii) September 1958."

Subsec. (g)(4). Pub. L. 89-97, § 308(d)(13), redesignated former par. (4) as (3).

Subsec. (h)(4). Pub. L. 89-97, § 306(c)(9), inserted in the text following subpar. (B) "but subject to subsection (s) of this section" following "notwithstanding the provisions of paragraph (1) of this subsection".

Subsec. (h)(4)(A). Pub L. 89-97, § 308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (j)(1). Pub. L. 89-97, § 303(d), inserted "under this subchapter" following "any benefit".

Subsec. (j)(2). Pub. L. 89-97, § 328(a), provided that an application for monthly benefits filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and that the application shall be deemed to have been filed in the first month if the applicant is found to satisfy the requirements for entitlement.

Subsec. (k)(2)(B). Pub. L. 89-97, § 333(c)(1), inserted "(other than an individual to whom subsection (e)(4) or (f)(5) of this section applies)" after "Any individual" and added provision limiting to the largest of such benefits any individual who is entitled for any month to more than one widow's or widower's benefits to which subsections (e)(4) or (f)(5) of this section applies.

Subsec. (k)(3). Pub. L. 89-97, § 333(c)(2), denominated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k)(4). Pub. L. 89-97, § 304(a), added par. (4).

Subsec. (p). Pub. L. 89-97, § 324(a), removed the 2-year limit on the allowed extension during which, for good cause shown, applications or proof may be filed and still be deemed filed within the prescribed period for filing applications or proof.

Subsec. (q). Pub. L. 89-97, § 304(b), changed the catchline to "Reduction of old-age, disability, wife's, husband's, or widow's insurance benefit amounts" from "Adjustment of old-age, wife's or husband's insurance benefit amounts in accordance with age of beneficiary".

Subsec. (q)(1). Pub. L. 89-97, § 307(b)(1), made the provisions preceding subpar. (A) and the 5/9 of 1 percent reduction in subpar. (A) applicable to widow's insurance benefit, substituted "retirement age" for "age 65" in the provisions preceding subpar. (A) and subpar. (B) (i) and (ii), substituted "(6)" and "(7)" for "(5)" and "(6)" in subpar. (B) (i) and (ii) and "any month" for "any other month" in subpar. (B)(ii).

Subsec. (q)(2). Pub. L. 89-97, § 304(c), added par. (2) and redesignated former par. (2) as (3).

Subsec. (q)(3)(A). Pub. L. 89-97, §§ 304(c), 307(b)(2) redesignated former par. (2) as (3), and made the provisions of subpar. (A) applicable to widow's insurance benefit and inserted "(in the case of a wife's or husband's insurance benefit) or age 60 (in the case of a widow's insurance benefit)" following "age 62", respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(B). Pub. L. 89-97, § 304 (c), (d), redesignated former par. (2) as (3), and substituted "benefit and is not entitled to a disability insurance benefit" for "benefit" the first time it appeared and inserted in clauses (i) and (ii) "for such month" following "paragraph (1)", respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(C). Pub. L. 89-97, § 304 (c), (e), redesignated former par. (2) as (3), and made the provisions of subpar. (C) applicable to widow's insurance benefit, inserted therein clause (i), incorporated existing provisions in clause (ii), and inserted in such clause (ii) "for such month" and "(before reduction under this subsection)" following "disability insurance benefit", respectively. Former par. (3) redesignated (4).

Subsec. (q)(3) (D), (E). Pub. L. 89-97, §§ 304(c), 307(b) (3), (4), redesignated former par. (2) as (3), made the provisions of subpar. (D) applicable to widow's insurance benefit, and added subpar. (E), respectively. Former par. (3) redesignated (4).

Subsec. (q)(3) (F), (G). Pub. L. 89-97, § 304 (c), (f), redesignated former par. (2) as (3) and added subpars. (F) and (G), respectively. Former par. (3) redesignated (4).

Subsec. (q)(4). Pub. L. 89-97, § 304 (c), (g), redesignated former par. (3) as (4) and renumbered in the text following subpar. (B) the cross references to par. (2) as (3) in three instances, and substituted in subpar. (A) "under paragraph (1) or (3) of this subsection" for "under this subsection", respectively. Former par. (4) redesignated (5).

Subsec. (q)(5)(D). Pub. L. 89-97, §§ 304(c), 307(b)(5), redesignated former par. (4) as (5) and added subpar. (D), respectively. Former par. (5) redesignated (6).

Subsec. (q)(6). Pub. L. 89-97, §§ 304(c), 307(b)(6), redesignated former par. (5) as (6) and renumbered in

subpar. (A)(ii) the cross reference to par. (4) as (5), and made the provisions preceding subpar. (A) and the provisions of subpar. (A)(i) applicable to widow's insurance benefit and substituted in subpar. (B) "retirement age" for "age 65", respectively. Former par. (6) redesignated (7).

Subsec. (q)(7). Pub. L. 89–97, §§ 304 (c), (h), 307(b)(7), redesignated former par. (6) as (7) and renumbered in the text preceding subpar. (A) the cross reference to par. (5) as (6), added subpar. (F), and made the provisions preceding subpar. (A) applicable to widow's insurance benefit and added subpars. (D), (E), respectively. Former par. (7), redesignated (8).

Subsec. (q)(8). Pub. L. 89–97, § 304 (c), (i), redesignated former par. (7) and (8) and renumbered therein cross reference to par. (2) as (3), and substituted "(1), (2)," for "(1)", respectively.

Subsec. (q)(9). Pub. L. 89–97, § 307(b)(8), added par. (9).

Subsec. (r)(2). Pub. L. 89–97, § 304(j), inserted "(but for subsection (k)(4) of this section)" following "eligible".

Subsec. (s). Pub. L. 89–97, § 306(c)(1), added subsec. (s).

Subsec. (t)(9). Pub. L. 89–97, § 104(a)(1), added par. (9).

Subsec. (u). Pub. L. 89–97, § 104(a)(2), inserted "in determining whether such individual is entitled to insurance benefits under part A of subchapter XVII of this chapter for any such month,".

Subsec. (v). Pub. L. 89–97, § 319(d), added subsec. (v).

1961—Subsec. (a)(2). Pub. L. 87–64, § 102(a), substituted "has attained age 62" for "has attained retirement age (as defined in section 416(a) of this title)."

Subsec. (b)(1). Pub. L. 87–64, § 102 (a), (e) (1), (2), substituted "age 62" for "retirement age" in two instances, "less than one-half of the primary insurance amount of her husband" for "less than one-half of an old-age or disability insurance benefit of her husband", and "equal to or exceeds one-half of the primary insurance amount of her husband" for "equal to or exceeds one-half of an old-age or disability insurance benefit of her husband."

Subsec. (b)(2). Pub. L. 87–64, § 102(e)(3), substituted "primary insurance amount" for "old-age or disability insurance benefit."

Subsec. (c)(1). Pub. L. 87–64, § 102 (a), (e) (4), (5), substituted "has attained age 62" for "has attained retirement age" in cl. (B), "based on a primary insurance amount which is less than one-half" for "each of which is less than one-half" in cl. (D), and "based on a primary insurance amount which is equal to or exceeds one-half" for "equal to or exceeding one-half" in the closing provisions.

Subsec. (c)(2)(A). Pub. L. 87–64, § 102(a), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (c)(3). Pub. L. 87–64, § 102(e)(6), substituted "Except as provided in subsection (q) of this section, such" for "Such."

Subsec. (e)(1). Pub. L. 87–64, §§ 102(a), 104(d)(1), substituted "has attained age 62" for "has attained retirement age" in subpar. (B), "attainment of age 62" for "attainment of retirement age" and "attained age 62" for "attained retirement age" in subpar. (C), and "82½ percent" for "three-fourths" in subpar. (D) and in the closing provisions.

Subsec. (e)(2). Pub. L. 87–64, § 104(a), substituted "82½ percent" for "three-fourths."

Subsec. (f)(1). Pub. L. 87–64, §§ 102(a), 104(d)(1), substituted "has attained age 62" for "has attained retirement age" in subpar. (B), and "82½ percent" for "three-fourths" in subpar. (E) and in the closing provisions.

Subsec. (f)(2)(A). Pub. L. 87–64, § 102(a), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (f)(3). Pub. L. 87–64, § 104(b), substituted "82½ percent" for "three-fourths."

Subsec. (h)(1). Pub. L. 87–64, §§ 102(a), 104(d)(2), substituted "has attained age 62" for "has attained retirement age" in subpar. (A), and "82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case)" for "three-fourths of the primary insurance amount of such deceased individual" in subpar. (D) and in the closing provisions.

Subsec. (h)(2). Pub. L. 87–64, § 104(c), designated existing provisions as subpar. (A), increased the benefit from three-fourths to 82½ percent of the primary insurance amount, and added subpars. (B) and (C).

Subsec. (j). Pub. L. 87–64, § 102(b)(3), extended provisions which formerly authorized waiver of old-age benefits or wife's benefits by a woman to permit waiver of any benefit by any individual.

Subsec. (q). Pub. L. 87–64, § 102(b)(1), among other changes, authorized adjustment of the old-age insurance benefits for men and of the husband's insurance benefits for months prior to the month in which the individual attains age 65, simplified the formula for reducing benefits, and, in cases where an individual is entitled to a reduced benefit and such benefit is increased by reason of an increase in the primary insurance amount, required separate computation of the increase for and after the first month for which such increase is effective.

Subsec. (r). Pub. L. 87–64, § 102(b)(1), extended application of the subsection to men, and provided in cases where an individual is entitled to a disability insurance benefit for the same month for which an application for a reduced wife's or husband's insurance benefit is effective, that the individual will be deemed to have filed an application for old-age insurance benefit in the first subsequent month for which the individual is not entitled to a disability insurance benefit.

Subsec. (s). Pub. L. 87–64, § 102(b)(2)(A), repealed subsec. (s) which related to female disability insurance beneficiaries.

1960—Subsec. (d)(1). Pub. L. 86–778, §§ 201 (a), (b), 205(a), 403(d), among other changes, eliminated words, "after 1939" which followed "fully or currently insured individual" in the opening clause, substituted "a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits" for "a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the monh in which he died, at the beginning of such period or at the time he became entitled to such benefits or died)" in subpar. (C), and inserted provisions making subpar. (C)(1) inapplicable, in the case of an individual entitled to disability insurance benefits, to a child of such individual unless he is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual) or was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual most recently became entitled to disability insurance benefits, and substituted provisions authorizing the payment of benefits until the month preceding the third month following the month in which a child ceases to be under a disability (as so defined) after the month in which he attains age 18 for provisions which authorized payment of benefits until the child ceases to be under a disability (as so defined) on or after the day on which he attains age 18.

Subsec. (d)(2). Pub. L. 86–778, § 301(a), eliminated provisions which required each child's insurance benefit, if there is more than one child entitled to benefits on the basis of an individual's wages and self-employment income, to be equal to the sum of (A) one-half of the primary insurance amount of the individual, and (B) one-fourth of the primary insurance amount divided by the number of such children.

Subsec. (d)(3). Pub. L. 86–778, §§ 202(a), 208(d), inserted provisions requiring that for purposes of such paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h)(2)(B) of this title, shall, if such individual is the child's father, be deemed to be the legitimate child of such individual, and eliminated subpar. (C) which related to a child living with and receiving more than one-half of his support from his stepfather.

Subsec. (e)(1). Pub. L. 86–778, § 205(a), eliminated words "after 1939" which followed "died a fully insured individual" in the opening clause.

Subsec. (f)(1). Pub. L. 86–778, § 205(b), eliminated words "after August 1950" which followed "died a fully and currently insured individual" in the opening clause.

Subsec. (g)(1). Pub. L. 86–778, § 205(a), eliminated words "after 1939" which followed "died a fully or currently insured individual" in the opening clause.

Subsec. (h)(1). Pub. L. 86–778, § 205(a), eliminated words "after 1939" which followed "died a fully insured individual" in the opening clause.

Subsec. (i). Pub. L. 86–778, §§ 103 (a), (j)(2)(C). 203(a), amended the second and third sentences to require payment to the funeral home to the extent of the unpaid expenses if all or part of the burial expenses remain unpaid, and to prescribe the manner of payment of any balance that may remain after the funeral home and the persons equitably entitled thereto have received payment, and substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa" for "Puerto Rico, or the Virgin Islands", "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title", and "is returned to any State" for "is returned to any of such States, or the District of Columbia."

Pub. L. 86–624 substituted "fifty States" for "forty-nine States."

Subsec. (n). Pub. L. 86–778, § 211(i), substituted "Section 403 (b), (c), and (d) of this title" for "Section 403 (b) and (c) of this title" in the last sentence of cl. (1).

Subsec. (q)(5). Pub. L. 86–778, § 211(j), substituted "under section 403(b) of this title or paragraph (1) of section 403(c) of this title" for "under paragraph (1) or (2) of section 403(b) of this title" in cl. (A), and "section 403(b), under section 403(c)(1), under section 403 (d)(1), or under section 422(b) of this title" for "paragraph (1) or (2) of section 403(b) of this title, under section 403(c) of this title, or under section 422(b) of this title" in cl. (B).

Subsec. (q)(6). Pub. L. 86–778, § 211(k), substituted "section 403(b), under section 403(c)(1), under section 403(d)(1), or under section 422(b) of this title" for "section 403(b) (1) or (2), under section 403(c), or under section 422(b) of this title" in cl. (A), and "under section 403(b) of this title or paragraph (1) of section 403(c) of this title" for "under paragraph (1) or (2) of section 403(b) of this title" in cl. (D).

Subsec. (t)(4)(D). Pub. L. 86–778, § 103(j)(2)(D), substituted "section 410(*l*)(2)" for "section 410(m)(2)", "section 410(*l*)(3)" for "section 410(m)(3)", and "section 410(m)" for "section 410(n)", wherever appearing.

Subsec. (t)(7). Pub. L. 86–778, § 211(*l*), substituted "Subsections (b), (c), and (d) of section 403 of this title" for "Subsections (b) and (c) of section 403 of this title."

1959—Subsec. (i). Pub. L. 86–70 substituted "forty-nine States" for "forty-eight States."

1958—Subsec. (b). Pub. L. 85–840, § 205 (b), substituted "old-age or disability insurance" for "old-age insurance" in seven instances, and inserted provisions terminating the wife's insurance benefit the month preceding the first month in which her husband is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

Subsec. (c)(1). Pub. L. 85–840, § 205(c), substituted "old-age or disability insurance" for "old-age insurance" wherever appearing, inserted provisions in subpar. (C) entitling the husband to an insurance benefit if he was receiving at least one-half of his support from the individual if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits provided he filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, and added provisions terminating the husband's insurance benefit the month preceding the first month in which his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

Subsec. (c)(2). Pub. L. 85–840, § 301(a)(1), added new subsec. (c)(2) and redesignated former subsec. (c)(2) as (c)(3).

Subsec. (c)(3). Pub. L. 85–840, § 301(a)(1), redesignated former subsec. (c)(2) as (c)(3).

Subsec. (d)(1). Pub. L. 85–840, § 205(d), inserted provisions entitling the child of an individual entitled to disability insurance benefits to insurance benefits if the child was dependent upon such individual if such individual had a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the month in which he died, at the beginning of such period or at the time he became entitled to such benefits or died, and providing that the benefits to a child of a disability insurance beneficiary shall cease with the month before the first month for which the individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month.

Subsec. (d)(3). Pub. L. 85–840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child".

Subsec. (d)(4). Pub. L. 85–840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child".

Subsec. (d)(5). Pub. L. 85–840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child" in two instances.

Subsec. (d)(6). Pub. L. 85–840, § 307(a), added subsec. (d)(6), and Pub. L. 85–840, § 306(a), repealed former subsec. (d)(6), which related to dependency of a child who has attained the age of eighteen and who is under a disability which began before he attained the age of eighteen.

Subsec. (e)(3)(B). Pub. L. 85–840, § 301(b)(1), substituted "which occurs within one year after such marriage and he did not die a fully insured individual" for "but she is not his widow (as defined in section 416(c) of this title)".

Subsec. (e)(4). Pub. L. 85–840, § 307(b), added subsec. (e)(4).

Subsec. (f)(1)(D). Pub. L. 85–840, § 205(e), inserted provisions entitling a widower to an insurance benefit if he was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which she died, at the time such period began, or at the time of her death, or at the time she became entitled to old-age or disability insurance benefits, and he filed proof of such support within two years after the month in which she filed application with respect to the period of disability or two years after the date of her entitlement to old-age or disability insurance benefits or her death.

Subsec. (f)(2). Pub. L. 85–840, § 301(c)(1), added subsec. (f)(2) and redesignated former subsec. (f)(2) as (f)(3).

Subsec. (f)(3). Pub. L. 85–840, § 301(c)(1), redesignated former subsec. (f)(2) as (f)(3).

Subsec. (f)(4). Pub. L. 85–840, § 307(c), added subsec. (f)(4).

Subsec. (g)(1)(F). Pub. L. 85–840, § 205(f), inserted provisions entitling a former wife divorced to an insurance benefit, if she was receiving at least one-half of her support from an individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Subsec. (g)(3). Pub. L. 85–840, § 303(a), added subsec. (g)(3). Another subsec. (g)(3), which was added by Pub. L. 85–798, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.

Subsec. (g)(4). Pub. L. 85–840, § 307(d), added subsec. (g)(4).

Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), eliminated from the opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e) (1) (D) of this section, a widower who met the conditions in subsec. (f) (1) (D) of this section, an unmarried child under the age of eighteen deemed

dependent on such individual under subsec. (d) (3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and who is deemed dependent on such individual under subsec. (d) (6) of this section.

Subsec. (h)(1)(B). Pub. L. 85-840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and the parent filed proof of such support within two years after the month in which the individual filed application with respect to such period of disability or two years after the date of such death.

Subsec. (h)(4). Pub. L. 85-840, § 307(e), added subsec. (h)(4).

Subsec. (i). Pub. L. 85-840, § 305(a), required a widow or widower to be living in the same household with the deceased at the time of death in order to receive a lump-sum death payment.

Subsec. (k). Pub. L. 85-840, § 205(h), substituted "old-age or disability insurance" for "old-age insurance" wherever appearing.

Subsec. (m). Pub. L. 85-840, § 101(e), substituted "less than the first figure in column IV of the table in section 415(a) of this title" for "less than $30", and "increased to the first figure in column IV of the table in section 415(a) of this title" for "increased to $30."

Subsec. (o). Pub. L. 85-857, substituted "described in section 3005 of Title 38" for "prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act".

Subsec. (q)(5). Pub. L. 85-840, § 205(i) (1), (2), inserted a reference to section 422(b) of this title in subpar. (B), added subpar. (D), and substituted "clauses (A), (B), (C), and (D)" for "clauses (A), (B), and (C)" in the closing provisions.

Subsec. (q)(6). Pub. L. 85-840, § 205(i)(3), (4), inserted a reference to section 422(b) of this title in subpar. (A), added subpar. (C), redesignated former subpar. (C) as (D), and substituted "clauses (A), (B), (C), and (D))" for "clauses (A), (B), and (C)" in the closing provisions.

Subsec. (t)(4)(E). Pub. L. 85-927, added subsec. (t)(4)(E).

1957—Subsec. (b)(1). Pub. L. 85-238, § 3(a), redesignated subpar. (D) as (C), and repealed former subpar. (C), which required the wife to be living with her husband at the time the application for benefits was filed.

Subsec. (c)(1). Pub. L. 85-238, § 3(b), redesignated subpars. (D) and (E) as (C) and (D), respectively, and repealed former subpar. (C), which required the husband to be living with his wife at the time the application for benefits was filed.

Subsec. (e)(1). Pub. L. 85-238, § 3(c), redesignated subpar. (E) as (D), and repealed former subpar. (D), which required the widow to be living with her husband at the time of his death.

Subsec. (f)(1). Pub. L. 85-238, § 3(d), redesignated subpars. (E) and (F) as (D) and (E), respectively, and repealed former subpar. (D), which required the widower to be living with his wife at the time of her death.

Subsec. (g)(1)(F). Pub. L. 85-238, § 3(e), eliminated provisions which required the widow to be living with her husband at the time of his death.

Subsec. (h)(1). Pub. L. 85-238, § 3(f), eliminated references to subpar. (E) of subsec. (e)(1) of this section and to subpar. (F) of subsec. (f)(1) of this section.

Subsec. (p)(1). Pub. L. 85-238, § 3(g), substituted "subparagraph (C) of subsection (c)(1)" for "subparagraph (D) of subsection (c)(1)" and "subparagraph (D) of subsection (f)(1)" for "subparagraph (E) of subsection (f)(1)".

Subsec. (t)(4)(D). Pub. L. 85-238, § 1, added subsec. (t)(4)(D).

1956—Subsec. (a). Act Aug. 1, 1956, ch. 836, § 102(d)(1), inserted "Except as provided in subsection (q) of this section".

Subsec. (a)(3). Act Aug. 1, 1956, ch. 836, § 103(c)(1), included an individual entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65.

Subsec. (b)(1). Act Aug. 1, 1956, ch. 836, § 102(d)(2), (3), substituted "old-age insurance benefits based on a primary insurance amount which" for "old-age insurance benefits each of which" in clause (D), and "old-age insurance benefit based on a primary insurance amount which is equal to or exceeds" for "old-age insurance benefit equal to or exceeding" in the provisions following clause (D).

Subsec. (b)(2). Act Aug. 1, 1956, ch. 836, § 102(d)(4), inserted "Except as provided in subsection (q) of this section".

Subsec. (c)(1). Act Aug. 1, 1956, ch. 836, § 102(d)(5), (6), substituted "the primary insurance amount of his wife" for "an old-age insurance benefit of his wife" in clause (E), and in the provisions following clause (E).

Subsec. (c)(2). Act Aug. 1, 1956, ch. 836, § 102(d)(7), substituted "primary insurance amount" for "old-age insurance benefit".

Subsec. (d)(1). Act Aug. 1, 1956, ch. 836, § 101(a), authorized child's insurance benefit for children, who at the time of filing application, are under a disability which began before they attained the age of 18, and permitted payment of such benefit until such disability ceases.

Subsec. (d)(2). Act Aug. 1, 1956, ch. 836, § 102(d)(7), substituted "primary insurance amount" for "old-age insurance benefit".

Subsec. (d) (3—5). Act Aug. 1, 1956, ch. 836, § 101(b)(1), substituted "A child who has not attained the age of eighteen" for "A child" wherever appearing in such paragraphs.

Subsec. (d)(6). Act Aug. 1, 1956, ch. 836, § 101(b)(2), added subsec. (d)(6).

Subsec. (e)(3). Act Aug. 1, 1956, ch. 836, § 113, added subsec. (e)(3).

Subsec. (h)(1). Act Aug. 1, 1956, ch. 836, § 101(c), precluded payment of parent's benefit if an individual dies leaving an unmarried child over 18 who is under a disability which began before the age of 18 and who is deemed dependent on such individual.

Subsec. (i). Act Aug. 1, 1956, ch. 837, § 403(a), substituted "January 1, 1957" for "April 1956", and inserted provisions authorizing payment of lumpsum death payment in the case of any individual who died outside the United States and the District of Columbia after December 1956 while performing service, as a member of a uniformed service, to which the provisions of section 410(m)(1) of this title are applicable.

Subsec. (j)(3). Act Aug. 1, 1956, ch. 836, § 102(d)(8), added subsec. (j)(3).

Subsec. (k)(2)(B). Act Aug. 1, 1956, ch. 836, § 103(c)(2), inserted reference to section 423 of this title.

Subsec. (k)(3). Act Aug. 1, 1956, ch. 836, § 102(d)(9), inserted provisions requiring reduction under subsection (q) of this section, and provided that the reduction should be not below zero.

Subsec. (m). Act Aug. 1, 1956, ch. 836, § 102(d)(10), inserted references to subsection (q) of this section.

Subsec. (n)(1)(A). Act Aug. 1, 1956, ch. 836, § 103(c)(3), inserted reference to section 423 of this title.

Subsec. (o). Act Aug. 1, 1956, ch. 837, § 407, added subsec. (o).

Subsec. (p). Act Aug. 1, 1956, ch. 836, § 114(a), added subsec. (p).

Subsecs. (q)—(s). Act Aug. 1, 1956, ch. 836, § 102(c), added subsecs. (q)—(s).

Subsecs. (t), (u). Act Aug. 1, 1956, ch. 836, §§ 118(a) and 121(a), added subsecs. (t) and (u) respectively.

1955—Subsec. (i). Act Aug. 9, 1955, made subsection applicable to cases of deaths occurring before April 1956.

1954—Subsec. (e)(1)(C). Act Sept. 1, 1954, § 110(a), provided that applications for widow's insurance benefits would not be required if the widow was entitled to a mother's insurance benefit in the month prior to the month in which she attained retirement age.

Subsec. (g)(1)(D). Act Sept. 1, 1954, § 110(b), provided that applications for mother's insurance benefits would not be required if the widow was entitled to a wife's insurance benefit for the month preceding the month in which the insured individual died.

Subsec. (i). Act Sept. 1, 1954, §§ 102(i)(2), 110(c), inserted the words ", or an amount equal to $255, whichever is the smaller" after "primary insurance amount.", and provided that an application for a lump-sum death

payment would not be required from an individual who was entitled to wife's or husband's insurance benefits for the month preceding the month in which the insured individual died.

Subsec. (j)(1). Act Sept. 1, 1954, § 105(a), substituted the word "twelfth" for "sixth".

Subsec. (m). Act Sept. 1, 1954, § 102(i)(1), added subsec. (m).

Subsec. (n). Act Sept. 1, 1954, § 107, added subsec. (n).

1953—Subsec. (i). Act Aug. 14, 1953, made subsec. applicable to cases of deaths occurring before July 1955.

1950—Subsec. (a). Act Aug. 28, 1950, changed the name of the benefit provided by this subsection from "primary insurance benefit" to "old-age insurance benefit", and continued the conditions under which an individual becomes entitled to the benefits.

Subsec. (b). Act Aug. 28, 1950, continued the conditions required for the wife to be entitled to benefits.

Subsec. (c). Act Aug. 28, 1950, provided benefits for the dependent husband of a female old-age insurance beneficiary who was currently insured at the time of her entitlement to the old-age insurance benefit.

Subsec. (d). Act Aug. 28, 1950, increased the total amount of the family benefits in a survivor family in which there is at least one entitled child by one-fourth of the worker's old-age benefit and restates the circumstances under which a child is deemed dependent upon an individual.

Subsec. (e). Act Aug. 28, 1950, permitted a wife entitled to wife's insurance benefits to become entitled to widow's insurance benefits upon the husband's death without filing a new application.

Subsec. (f). Act Aug. 28, 1950, provided benefits for the dependent widower of a woman who is fully and currently insured at the time of her death.

Subsec. (g). Act Aug. 28, 1950, changed title of widow's current insurance benefits to mother's insurance benefits and provided for payment of such benefits to the divorced wife of a deceased insured worker if she had been receiving at least half her support from the worker, and if she is caring for her son, daughter, or legally adopted child who is receiving benefits on the worker's wage record.

Subsec. (h). Act Aug. 28, 1950, changed the requirement that a parent must have been chiefly dependent upon and supported by the wage earner to the requirement that the parent only need have been receiving one-half his support in order for the parent to be found a dependent.

Subsec. (i). Act Aug. 28, 1950, limited the amount of the lump-sum death payment to three times the worker's primary insurance amount instead of six times the amount.

Subsec. (j). Act Aug. 28, 1950, increased from 3 to 6 the number of months for which benefits may be paid retroactively to individuals who failed to file their applications as soon as they were otherwise eligible.

Subsecs. (k), (*l*). Act Aug. 28, 1950, added subsecs. (k) and (*l*).

1946—Subsec. (c). Act Aug. 10, 1946, § 402, changed par. (1) to prevent termination of benefits on adoption by a stepparent, grandparent, aunt or uncle and changed par. (3) (C) to omit qualification as to the time of such individual's death and to require the child to be chiefly supported by the stepfather.

Subsec. (f)(1). Act Aug. 10, 1946, § 403(a), provided that benefit payments to parents are prevented only if the individual leaves a widow or child who could become entitled to benefits and required parents to be chiefly instead of wholly dependent.

Subsec. (g). Act Aug. 10, 1946, § 404(a), required that a widow or widower must have been living with deceased at time of death to be entitled to a lump sum payment and provided that if there was no such spouse, the payment will be made to the person or persons equitably entitled thereto in the proportion and to the extent that he or they have paid the burial expenses.

Subsec. (h). Act Aug. 10, 1946, § 405(a), extended the provision for payment of benefits retroactively for three months to the primary beneficiary and provided that retroactive benefits shall be reduced so as not to render erroneous any benefit previously paid.

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1004(d) of Pub. L. 91–172 provided that: "The amendments made by subsections (a), (b), and (c) [amending this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 103(e) of Pub. L. 90–248 provided that: "The amendments made by subsections (a), (b), (c), and (d) [to subsecs. (b)(2), (c)(3), (e)(4) and (f)(5) of the section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968."

Section 104(e) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsecs. (e)(1), (5), (6), (f)(1), (3), (6), (7), (q), (q)(1), (3), (6), (7), (9) of this section and sections 403(c), (f)(1), (2), (4), 416(i)(1), 422(a), (b)(1), (d)(1) and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 112(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [to subsec. (d)(8) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed after the date of enactment of this Act [Jan. 2, 1968]."

Section 151(e) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsecs. (d)(3)—(10), (s)(2), (3) of this section and section 228e(*l*)(1) of Title 45] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] (and annuities accruing under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45]) for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 157(d) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsecs. (c)(1), (2), (f)(1), (2) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [Jan. 1968]."

Amendment of subsec. (d), (s) of this section by section 158(c)(1),(2) of Pub. L. 90–248, applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90–248, set out as a note under section 423 of this title.

Section 162(a)(2) of Pub. L. 90–248 provided that: "The amendment made by paragraph (1) [to subsec. (t)(1) of this section] shall apply only with respect to six-month periods (within the meaning of section 202(t)(1)(A) of the Social Security Act [subsec. (t)(1)(A) of this section]) which begin after the date of the enactment of this Act [Jan. 2, 1968]."

Section 162(b)(2) of Pub. L. 90–248 provided that: "The amendment made by paragraph (1) [to subsec. (t)(4) of this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning after June 30, 1968."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (j)(1) of this section by section 303(d) of Pub. L. 89–97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for disability determinations under section 416(i) of this title, filed in or after July 1965 or before July 1965, if the applicant has not died before such month and notice of final administrative decision has not been given to the applicant before such month, see section

303(f)(1), of Pub. L. 89-97, set out as a note under section 423 of this title.

Section 304(o) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (k)(4), (q), and (r)(2) of this section and sections 415(a)(4), 416(i)(2), and 423(a) of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for and after the second month following the month [July 1965] in which this Act [Pub. L. 89-97] is enacted, but only on the basis of applications filed in or after the month [July 1965] in which this Act [Pub. L. 89-97] is enacted."

Section 306(d) of Pub. L. 89-97 provided that:

"The amendments made by this section [to subsecs. (c)—(h), (s) of this section and sections 403(c), (f)(1), 416 (b), (c), (f), (g), 422(b) and 425 of this title] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] for months after December 1964; except that—

"(1) in the case of an individual who was not entitled to a child's insurance benefit under subsection (d) of such section [subsec. (d) of this section] for the month in which this Act is enacted [July 1965], such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted [July 1965], and

"(2) no monthly insurance benefit shall be payable for any month before the second month following the month in which this Act is enacted [July 1965] by reason of section 202(d)(1)(B)(ii) of the Social Security Act [subsec. (d)(1)(B)(ii) of this section] as amended by this section."

Section 307(c) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (e) (1)(B), (2), and (q) of this section] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] for and after the second month following the month [July 1965] in which this Act [Pub. L. 89-97] is enacted, but only on the basis of applications filed in or after the month [July 1965] in which this Act [Pub. L. 89-97] is enacted."

Section 308(e) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (b), (c)(1), (d)(6)(A), (e), (f)(4)(A), (g) and (h)(4)(A) of this section and sections 403 (a)(3), (c)(4), (d)(1), 405 (b), (c)(1)(C), 416 (b)—(d) and 422(b)(3) of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965]; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 202 of such Act [this section] for the first month following the month in which this Act is enacted [July 1965], only on the basis of an application filed in or after the month in which this Act is enacted [July 1965]."

Amendment of section by section 319 of Pub. L. 89-97 applicable with respect to taxable years beginning after December 31, 1950, see section 319(e) of Pub. L. 89-97, set out as a note under section 1402 of Title 26.

Section 323(b) of Pub. L. 89-97 provided that: "The amendments made by subsection (a) of this section [striking out the last sentence of par. (1) of subsec. (d) of this section and adding pars. (9) and (10) to subsec. (d) of this section] shall be applicable to persons who file applications, or on whose behalf applications are filed, for benefits under section 202(d) of the Social Security Act [subsec. (d) of this section] on or after the date this section is enacted [July 30, 1965]. The time limit provided by section 202(d)(10)(B) of such Act [subsec. (d)(10)(B) of this section] as amended by this section for legally adopting a child shall not apply in the case of any child who is adopted before the end of the 12-month period following the month in which this section is enacted."

Section 324(b) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (p) of this section] shall be effective with respect to (1) applications for lump-sum death payments filed in or after the month [July 1965] in which this Act is enacted, and (2) monthly benefits based on applications filed in or after such month."

Amendment of subsec. (j)(2) of this section by section 328 of Pub. L. 89-97 applicable with respect to applications filed on or after July 30, 1965, applications as to which the Secretary has not made a final decision before July 30, 1965, and, if a civil action with respect to a final decision of the Secretary has been commenced under section 405(g) of this title before July 30, 1965, applications as to which there has been no final judicial decision before July 30, 1965, see section 328(d) of Pub. L. 89-97, set out as a note under section 416 of this title.

Section 333(d) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (e), (f) and (k) of this section] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] beginning with the second month following the month in which this Act is enacted [July 1965]; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 203 (e) or (f) of such Act [subsec. (e) or (f) of this section] for the first month following the month in which this Act is enacted, only on the basis of an application filed in or after the month in which this Act is enacted."

Section 334(g) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsecs. (c)(2) and (f)(2) of this section and section 416 (b), (c), (f), and (g) of this title] shall be applicable only with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965], but only on the basis of applications filed in or after the month in which this Act is enacted [July 1965]."

Amendment of subsec. (d)(3) of this section by section 339 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under subchapter II of this chapter beginning with September 1965 but only on the basis of an application filed in or after July 1965, see section 339(c) of Pub. L. 89-97, set out as a note under section 416 of this title.

Section 343(b) of Pub. L. 89-97 provided that: "The amendment made by subsection (a) [to subsec. (d)(1)(D) of this section] shall apply only with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [July 1965]; except that, in the case of an individual who was not entitled to child's insurance benefits under section 202(d) of such Act [subsec. (d) of this section] for the month in which this Act was enacted [July 1965], such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted [July 1965]."

EFFECTIVE DATE OF 1961 AMENDMENT

Section 109 of Pub. L. 87-64 provided that: "Except as otherwise provided, the effective date of this title is the first day of the first calendar month which begins on or after the 30th day after the date of the enactment of this Act [June 30, 1961]."

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 201(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to par. (c) and the last sentence of subsec. (d)(1) of this section] shall apply as though this Act had been enacted on August 28, 1958, and with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after August 1958 based on applications for such benefits filed on or after August 28, 1958."

Amendment of subsec. (d)(1) of this section by Pub. L. 86-778 applicable only with respect to benefits under subsec. (d) of this section or section 423(a) of this title for months after Sept. 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for Sept. 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

Section 205(d) of Pub. L. 86-778 provided that: "The preceding provisions of this section and the amendments made thereby [to the opening clauses of subsecs. (d)(1), (e)(1), (f)(1), (g)(1) and (h)(1) of this section] shall apply only in the case of monthly benefits under title II

of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month."

Section 301(b) of Pub. L. 86–778 provided that: "The amendment made by this section [to subsec. (d)(2) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after the second month following the month in which this Act is enacted [Sept. 1960]."

Amendment of subsec. (d)(3) of this section by Pub. L. 86–778, § 208(d), which added sentence following subpar. (B), applicable (1) with respect to monthly benefits under this subchapter for months beginning with Sept. 1960 on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under this subchapter based on an application filed in or after Sept. 1960, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under this subchapter prior to Sept. 13, 1960 with respect to the death of the same individual, see section 208(f) of Pub. L. 86–778, set out as a note under section 416 of this title.

Section 202(b) of Pub. L. 86–778 provided that: "The amendments made by subsection (a) [which eliminated subpar. (C) of subsec. (d)(3) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning with the month in which this Act is enacted [Sept. 1960], but only if an application for such benefits is filed in or after such month."

Section 203(b) of Pub. L. 86–778 provided that:

"The amendment made by subsection (a) [to the second and third sentences of subsec. (i) of this section] shall apply—

"(1) in the case of the death of an individual occurring on or after the date of the enactment of this Act [Sept. 13, 1960], and

"(2) in the case of the death of an individual occurring prior to such date, but only if no application for a lump-sum death payment under section 202(i) of the Social Security Act [subsec. (i) of this section] is filed on the basis of such individual's wages and self-employment income prior to the third calendar month beginning after such date."

Section 103(v) of Pub. L. 86–778 provided that:

"(1) The amendments made by subsection (a) [to last two sentences of subsec. (i) of this section and to notes under this section] shall apply only with respect to reinterments after the date of the enactment of this Act [Sept. 13, 1960]. The amendments made by subsections (b), (e), and (f) [to sections 403(k) and 410 (h), (i) of this title] shall apply only with respect to service performed after 1960; except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, such amendments shall apply only in the case of taxable years beginning after 1960. The amendments made by subsections (d), (i), (o), and (p) [adding section 410(a)(18) of this title and section 3121(b)(18) of Title 26 and amending section 418 (b)(1) of this title and section 3121(e) of Title 26] shall apply only with respect to service performed after 1960. The amendments made by subsections (h) and (*l*) [to section 411(b) of this title and section 1402(b) of Title 26] shall apply only in the case of taxable years beginning after 1960. The amendments made by subsections (c), (n), (q), and (r) [adding sections 3125, 6205(a)(3), 6413(a)(3) and 6413(c)(2) (D), (E) of Title 26, and amending section 410(a)(7) of this title and section 3121(b)(7) of Title 26] shall apply only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act [this subchapter] extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by such title II extended to the officers and employees of such Government and such political subdivisions and instrumentalities. The amendments made by subsections (g) and (k) [to section 411 (a) (7), (8) of this title and section 1402(a) (8), (9) of Title 26] shall apply only in the case of taxable years beginning after 1960, except that, insofar as they involve the nonapplication of section 932 of the Internal Revenue Code of 1954 [section 932 of Title 26] to the Virgin Islands for purposes of chapter 2 of such Code and section 211 of the Social Security Act [section 411 of this title], such amendments shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and such section 211 [section 411 of this title] are applicable. The amendments made by subsections (j), (s), and (t) [adding section 7213(d) of Title 26, amending subsecs. (i) (last sentence), and (t)(4)(D) of this section and sections 405(p)(1), 409(j), 409 (last par.), 410 (j)—(n), 411(a)(6), 415(h)(1), 417(e)(1) and 418(c)(6)(C) of this title and section 7701(a)(12) of Title 26, and repealing section 419 of this title] shall take effect on the date of the enactment of this Act [Sept. 13, 1960]; and there are authorized to be appropriated such sums as may be necessary for the performance by any officer or employee of functions delegated to him by the Secretary of the Treasury in accordance with the amendment made by such subsection (t) [to section 7701(a)(12) of Title 26].

"(2) The amendments made by subsections (c) and (n) [to section 410(a)(7) of this title and section 3121(b)(7) of Title 26] shall have application only as expressly provided therein, and determinations as to whether an officer or employee of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, is an employee of the United States or any agency or instrumentality thereof within the meaning of any provision of law not affected by such amendments, shall be made without any inferences drawn from such amendments.

"(3) The repeal (by subsection (j)(1)) of section 219 of the Social Security Act [section 419 of this title], and the elimination (by subsections (e), (f), (h), (j)(2), and (j)(3)) of other provisions of such Act [from sections 410(h—j) and 411 (a)(6), (b) of this title] making reference to such section 219 [section 419 of this title], shall not be construed as changing or otherwise affecting the effective date specified in such section for the extension to the Commonwealth of Puerto Rico of the insurance system under title II of such Act [this subchapter], the manner or consequences of such extension, or the status of any individual with respect to whom the provisions so eliminated are applicable."

Section 47(e) of Pub. L. 86–624 provided that: "The amendment made by section 30(c)(1) [amending subsec. (i) of this section] shall be applicable in the case of deaths occurring on or after August 21, 1959."

Amendment of subsecs. (n)(1), (q)(5), (6) and (t)(7) of this section by Pub. L. 86–778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86–778, see note under section 403 of this title.

Effective Date of 1959 Amendment

Section 47(e) of Pub. L. 86–70 provided that: "The amendment made by paragraph (1) of subsection (c) of section 32 [to subsec. (i) of this section] shall apply in the case of deaths occurring on or after January 3, 1959."

Effective Date of 1958 Amendments

Amendment of subsecs. (b), (c) (1), (d) (1), (f) (1) (D), (g) (1) (F), (h) (1) (B), (k), and (q) (5), (6) of this section by section 205 of Pub. L. 85–840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207 (a) of Pub. L. 85–840, set out as a note under section 416 of this title.

Section 301 (f) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (c) (2), (3), (e) (3) (B) and (f) (2), (3) of this section, and section 416 (b)—(d), (f), (g) of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 306 (b) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (d) (3)—(6) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 307 (h) (1) of Pub. L. 85-840 provided that: "The amendments made by this section (other than by subsections (f) and (g) [adding subsecs. (d) (6), (e) (4), (f) (4), and (h) (4) to this section]) shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months following the month in which this Act is enacted [August 1958]; except that in any case in which benefits were terminated with the close of the month in which this Act is enacted [August 1958] or any prior month and, if the amendments made by this section had been in effect for such month, such benefits would not have been terminated, the amendments made by this section shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed after such date."

Section 304 (a) (2) of Pub. L. 85-840 provided that: "The amendment made by this subsection [to the opening provisions of subsec. (h) (1) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 305 (c) of Pub. L. 85-840 provided that: "The amendments made by this section [to the first sentence of subsec. (i) of this section, and section 416(h)(3) of this title] shall apply in the case of lump-sum death payments under such section 202(i) [subsec. (i) of this section] on the basis of the wages and self-employment income of any individual who dies after the month in which this Act is enacted [August 1958]."

Amendment of subsec. (m) of this section by Pub. L. 85-840 applicable in the case of monthly benefits under subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101 (g) of Pub. L. 85-840, set out as a note under section 415 of this title.

Amendment of subsec. (o) by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding section 101 of Title 38, Veterans' Benefits.

Section 302 of Pub. L. 85-927 provided that: "The amendments made by section 301 of this Act [adding subsec. (t) (4) (E) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 [this section] in the case of deaths occurring after December 1956."

EFFECTIVE DATE OF 1957 AMENDMENT

Section 2 of Pub. L. 85-238 provided that: "The amendments made by the first section of this Act [adding subsec. (t) (4) (D)] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 [this section] in the case of deaths occurring after December 1956."

Section 3 (i) of Pub. L. 85-238 provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [to subsecs. (b), (c), (e)—(h) and (p) of this section and section 416 (h) of this title] shall apply in the case of monthly benefits under section 202 of the Social Security Act [this section] for months after the month in which this Act is enacted [August 1957].

"(2) The amendment made by subsection (f) [to subsec. (h) (1) of this section] shall not apply in the case of benefits under section 202 (h) of the Social Security Act [subsec. (h) of this section], based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted [August 1957] for any parent who files the proof of support, required by such section 202 (h) [subsec. (h) of this section], in or prior to the month in which this Act is enacted [August 1957]; and the amendment to section 216 (h) (1) of such Act [section 416 (h) (1) of this title] made by subsection (h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202 (h) of such Act [subsec. (h) of this section]."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 403 (b) of act Aug. 1, 1956, ch. 837, provided that: "The amendment made by subsection (a) [to subsec. (i) of this section] shall be effective as though it had been enacted on March 31, 1956."

Section 101 (h) of act Aug. 1, 1956, ch. 836, provided that:

"(1) The amendments made by this section [to sections 402 (d) (1, 3—5, 6), (h) (1), and 403 (a), (b), (d), (h) of this title], other than subsection (c) [to subsec. (h) (1) of this section], shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, but only, except as provided in paragraph (2), on the basis of an application filed after September 1956. For purposes of title II of the Social Security Act, as amended by this Act [this subchapter], an application for wife's, child's, or mother's insurance benefits under such title II filed, by reason of this paragraph, by an individual who was entitled to benefits prior to, but not for, December 1956 and whose entitlement terminated as a result of a child's attainment of age eighteen shall be treated as the application referred to in subsection (b), (d), and (g), respectively, of section 202 of such Act [subsec. (b), (d), and (g) of this section].

"(2) In the case of an individual who was entitled, without the application of subsection (j) (1) of such section 202 [subsec. (j) (1) of this section], to a child's insurance benefit under subsection (d) of such section [subsec. (d) of this section] for December 1956, such amendments shall apply with respect to benefits under such section 202 [this section] for months after December 1956.

"(3) The amendment made by subsection (c) [to subsec. (h) (1) of this section] shall apply in the case of benefits under section 202 (h) of the Social Security Act [subsec. (h) of this section] based on the wages and self-employment income of an individual who dies after August 1956."

Section 114 (b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [adding subsec. (p) of this section] shall apply in the case of lump-sum death payments under title II of the Social Security Act [this subchapter], and monthly benefits under such title for months after August 1956, based on applications filed after August 1956."

Section 118 (b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [adding subsec. (t) of this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1956 and in the case of lump-sum death payments under section 202 (i) of such Act [subsec. (i) of this section] with respect to deaths occurring after December 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 105 (b) of act Sept. 1, 1954, provided that: "The amendment [to subsec. (j) (1)] made by subsection (a) shall be applicable only in the case of applications for monthly benefits under section 202 of the Social Security Act [this section] filed after August 1954; except that no individual shall, by reason of such amendment, be entitled to any benefit for any month prior to February 1954."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 101 (b) (1), (3), of act Aug. 28, 1950, provided that all amendments of the subsections of this section by section 101(a) of act Aug. 28, 1950, shall be effective as of Sept. 1, 1950, except that subsection (j) (2) of this section shall be effective as of Aug. 28, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Section 403 (b) of act Aug. 10, 1946, provided that the amendment to subsec. (f) by section 403 (a) of act Aug. 10, 1946, shall be applicable only in cases of applications for benefits under that act filed after December 31, 1946.

Section 404 (b) of act Aug. 10, 1946, provided that the amendment to subsec. (g) by section 404 (a) of act Aug. 10, 1946, shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

Subsec. 405 (b) of act Aug. 10, 1946, provided that the amendment to subsec. (h) by section 405 (a) of act Aug. 10, 1946, shall be applicable only in cases of applications for benefits filed under sections 401—410 of this title, filed after Dec. 31, 1946.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

SHORT TITLE OF 1961 AMENDMENTS

Section 1 of Pub. L. 87-64 provided: "That this Act [enacting section 1313 of this title, amending this section and sections 303, 403, 409, 413, 414, 415, 416, 418, 423, 1203, 1308 and 1353 of this title, sections 1401, 1402, 3101 and 3111 of Title 26, Internal Revenue Code, and section 228a of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 303, 403, 414, 415, 416 and 1308 of this title and under sections 1401 and 1402 of Title 26] may be cited as the 'Social Security Amendments of 1961.'"

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" in subsec. (g) by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

1961 INCREASE IN MONTHLY BENEFITS; EFFECTIVE DATE

Section 102(f) of Pub. L. 87-64 provided that:

"(1) The amendments made by subsection (a) [substituting "age 62" for "retirement age" and "retirement age (as defined in section 416(a) of this title)" in subsecs. (a)—(c), (e), (f) and (h) of this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section] based on applications filed in or after March 1961.

"(2) (A) Except as provided in subparagraphs (B), (C), and (D), section 202(q) of such Act [subsec. (q) of this section], as amended by subsection (b) (1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section].

"(B) Section 202(q) (3) of such Act [subsec. (q) (3) of this section], as amended by subsection (b) (1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see note under this section], but only if the increase described in such section 202(q) (3) [subsec. (q) (3) of this section]—

"(i) is not effective for any month beginning before the effective date of this title [see effective date note under this section], or

"(ii) is based on an application for a recomputation filed on or after the effective date of this title [see effective date note under this section]

"(C) In the case of any individual who attained age 65 before the effective date of this title [see effective date note under this section], the adjustment in such individual's reduction period provided for in section 202(q) (6) of such Act [subsec. (q) (6) of this section], as amended by subsection (b) (1), shall not apply to such individual unless the total of the months specified in subparagraphs (A), (B), and (C) of such section 202(q) (6) [subsec. (q) (6) of this section] is not less than 3.

"(D) In the case of any individual entitled to a monthly benefit for the last month beginning before the effective date of this title [see effective date note under this section], if the amount of such benefit for any month thereafter is, solely by reason of the change in section 202(q) of such Act [subsec. (q) of this section] made by subsection (b) (1), lower than the amount of such benefit for such last month, then it shall be increased to the amount of such benefit for such last month.

"(3) Section 202(r) of such Act [subsec. (r) of this section], as amended by subsection (b) (1), shall apply only with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section], except that subparagraph (B) of section 202(r) (2) [subsec. (r) (2) of this section] (as so amended) shall apply only if the first subsequent month described in such subparagraph (B) is a month beginning on or after the effective date of this title [see effective date note under this section].

"(4) The amendments made by subsection (b) (2) [adding subsec. (a) (3) to section 423 of this title, amending sections 416(i) (2) and 423(a) (1) of this title, and repealing subsec. (s) of this section] shall take effect on the effective date of this title [see effective date note under this section].

"(5) The amendments made by subsection (b) (3) [to subsec. (j) (3) of this section] shall apply with respect to applications for monthly benefits filed on or after the effective date of this title [see effective date note under this section].

"(6) The amendments made by subsections (c) and (d) (1) and (2) [amending sections 409(i), 413(a), 415 (a) (4), (b) (3), 416 (b), (c), (f), (g), (i) (3) (A), and 423 (a) (2), (c) (1) (A) of this title, and repealing subsec. (a) of section 416 of this title] shall apply with respect to—

"(A) monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section] based on applications filed in or after March 1961, and

"(B) lump-sum death payments under title II of the Social Security Act [this subchapter] in the case of deaths on or after the effective date of this title [see effective date note under this section].

"(7) The amendment made by subsection (d) (3) [adding subsec. (f) (7) to section 415 of this title] shall take effect on the effective date of this title [see effective date note under this section].

"(8) The amendments made by subsection (e) [to subsecs. (b) (1), (2), (c) (1), (3) of this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section].

"(9) For purposes of this subsection, the term 'monthly benefits' means monthly insurance benefits under title II of the Social Security Act [this subchapter]."

1961 INCREASE IN WIDOW'S, WIDOWER'S, AND PARENT'S INSURANCE BENEFITS; EFFECTIVE DATE

Section 104(e) of Pub. L. 87-64 provided that: "The amendments made by this section [to subsecs. (e) (1), (2), (f) (1), (3), and (h) (1), (2) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning on or after the effective date of this title [see effective date note under this section]."

PROHIBITION ON REDUCTION OF BENEFITS FOR CERTAIN PERSONS DEEMED TO BE WIFE, HUSBAND, WIDOW, WIDOWER, CHILD, OR STEPCHILD

Section 208(e) of Pub. L. 86-778 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j) (1) of the Social Security Act [subsec. (j) (1) of this section]) to monthly benefits under section 202 of such Act [this section] for

the month before the month in which this Act is enacted [Sept. 1960] on the basis of the wages and self-employment income of an individual; and

"(2) any person is entitled to benefits under subsection (b), (c), (d), (e), (f), or (g) of section 202 of the Social Security Act [subsec. (b), (c), (d), (e), (f), or (g) of this section] for any subsequent month on the basis of such individual's wages and self-employment income and such person would not be entitled to such benefits but for the enactment of this section; and

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section] on the basis of such individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title],

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall not, after the application of such section 203(a) [section 403(a) of this title], be less than the amount it would have been (determined without regard to section 301 [section 501 of this title]) if no person referred to in paragraph (2) of this subsection was entitled to a benefit referred to in such paragraph for such subsequent month on the basis of such wages and self-employment income of such individual."

PROHIBITION ON REDUCTION OF BENEFITS TO WIDOW, WIDOWER, OR PARENT IN CERTAIN CASES WHERE FAMILY MAXIMUM APPLIES

Section 301(c) of Pub. L. 86–778 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under section 202 of such Act [this section] for the second month following the month in which this Act is enacted [Sept. 1960] on the basis of the wages and self-employment income of a deceased individual (but not including any person who became so entitled by reason of section 208 of this Act [section 408 of this title]); and

"(2) no person, other than (i) those persons referred to in paragraph (1) of this subsection (ii) those persons who are entitled to benefits under section 202 (d), (e), (f), or (g) of the Social Security Act [subsecs. (d), (e), (f), or (g) of this section] but would not be so entitled except for the enactment of section 208 of this Act [section 408 of this title], is entitled to benefits under such section 202 [this section] on the basis of such individual's wages and self-employment income for any subsequent month or for any month after the second month following the month in which this Act is enacted [Sept. 1960] and prior to such subsequent month; and

"(3) the total of the benefits to which all persons referred to in paragraph (1) of this subsection are entitled under section 202 of the Social Security Act [this section] on the basis of such individual's wages and self-employment income for such subsequent month exceeds the maximum of benefits payable, as provided in section 203(a) of such Act [section 403(a) of this title], on the basis of such wages and self-employment income,

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined—

"(4) in case such person is entitled to benefits under section 202 (e), (f), (g), or (h) [subsecs. (e), (f), (g), or (h) of this section], as though this section and section 208 [section 408 of this title] had not been enacted, or

"(5) in case such person is entitled to benefits under section 202(d) [subsec. (d) of this section], as though (i) no person is entitled to benefits under section 202 (e), (f), (g), or (h) [subsecs. (e), (f), (g), or (h) of this section] for such subsequent month, and (ii) the maximum of benefits payable, as described in paragraph (3), is such maximum less the amount of each person's benefit for such month determined pursuant to paragraph (4)."

PROHIBITION ON REDUCTION OF BENEFITS BECAUSE OF PARENT'S ENTITLEMENT

Section 304 (b) of Pub. L. 85–840 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec (j)(1) of this section]) to monthly benefits under section 202 of such Act [this section] for the month in which this Act is enacted [August 1958] on the basis of the wages and self-employment income of an individual; and

"(2) a person is entitled to a parent's insurance benefit under section 202(h) of the Social Security Act [subsec. (h) of this section] for any subsequent month on the basis of such wages and self-employment income and such person would not be entitled to such benefit but for the enactment of this section; and

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section] on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title].

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be increased, after the application of such section 203 (a) [section 403 (a) of this title], to the amount it would have been if no person referred to in paragraph (2) of this subsection was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

SAVING CLAUSE; WIDOW'S, WIDOWER'S AND PARENT'S BENEFITS

Section 104(f) of Pub. L. 87–64 provided that:

"Where—

"(1) two or more persons were entitled (without the application of subsection (j)(1) of section 202 of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under such section 202 [this section] for the last month beginning before the effective date of this title [see effective date note under this section] on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is entitled to a monthly insurance benefit under subsection (e), (f), or (h) of such section 202 [subsec. (e), (f), or (h) of this section] for such last month; and

"(2) no person, other than the persons referred to in paragraph (1) of this subsection, is entitled to benefits under such section 202 [this section] on the basis of such individual's wages and self-employment income for a subsequent month or for any month after such last month and before such subsequent month; and

"(3) the total of the benefits to which all persons are entitled under such section 202 [this section] on the basis of such individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title],

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined without regard to this Act if, after the application of this Act, such benefit for such month is less than the amount of such benefit for such last month. The preceding provisions of this subsection shall not apply to any monthly benefit of any person for any month beginning after the effective date of this title [see effective date note under this section] unless paragraph (3) also applies to such benefit for the month beginning on such effective date (or would so apply but for the next to the last sentence of section 203(a) of the Social Security Act [section 403 (a) of this title])."

BENEFITS OF PARENT, WIDOW, WIDOWER, OR MOTHER; SAVINGS CLAUSE

Section 5 of Pub. L. 85–238 provided that:

"Where—

"(a) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to parents' insur-

ance benefits under section 202(h) of such Act [subsec. (h) of this section] for the month in which this Act [August 1957] is enacted on the basis of the wages and self-employment income of an individual;

"(b) a person becomes entitled to a widow's, widower's or mother's insurance benefit under section 202(e), (f), or (g) of the Social Security Act [subsec. (e), (f), or (g) of this section] for any subsequent month on the basis of such wages and self-employment income;

"(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section], on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title];

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203 (a) [section 403 (a) of this title], to the amount it would have been—

"(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

"(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

PROOF OF SUPPORT BY HUSBAND OR WIDOWER IN CERTAIN CASES

Section 113 of act Sept. 1, 1954, provided that:

"(a) For the purpose of determining the entitlement of any individual to husband's insurance benefits under subsection (c) of section 202 of the Social Security Act [subsec. (c) of this section] on the basis of his wife's wages and self-employment income, the requirements of paragraph (1) (D) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202 [subsec. (a) of this section], and (B) in which an event described in paragraph (1) or (2) of section 203 (b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j)(1) of such section 202 [subsec. (j)(1) of this section], entitled to a primary insurance benefit under such Act for August 1950.

"(b) For the purpose of determining the entitlement of any individual to widower's insurance benefits under subsection (f) of section 202 of the Social Security Act [subsec. (f) of this section] on the basis of his deceased wife's wages and self-employment income, the requirements of paragraph (1) (E) (ii) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife, and she was a currently insured individual, on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202 [subsec. (a) of this section], and (B) in which an event described in paragraph (1) or (2) of section 203(b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur,

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j)(1) of such section 202 [subsec. (j)(1) of this section], entitled to a primary insurance benefit under such Act for August 1950.

"(c) For purposes of subsection (b) (1) of this section, and for purposes of section 202 (c) (1) of the Social Security Act [subsec. (c) (1) of this section] in cases to which subsection (a) of this section is applicable, the wife of an individual shall be deemed a currently insured individual if she had not less than six quarters of coverage (as determined under section 213 of the Social Security Act) [section 413 of this title] during the thirteen-quarter period ending with the calendar quarter in which occurs the first month (1) for which such wife was entitled to a monthly benefit under section 202 (a) of such Act [subsec. (a) of this section], and (2) in which an event described in paragraph (1) or (2) of section 203 (b) of such Act [subsec. (b) (1) or (2) of this section] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(d) This section shall apply only with respect to husband's insurance benefits under section 202 (c) of the Social Security Act [subsec. (c) of this section], and widower's insurance benefits under section 202 (f) of such Act [subsec. (f) of this section], for months after August 1954, and only with respect to benefits based on applications filed after such month."

SAVING PROVISIONS FOR PERSONS RECEIVING BENEFITS PRIOR TO SEPT. 1, 1950

Section 101 (c) of act Aug. 28, 1950, provided that:

"(1) Any individual entitled to primary insurance benefits or widow's current insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to old-age insurance benefits or mother's insurance benefits (as the case may be) under section 202 of the Social Security Act [this section], as amended by this Act, as though such individual became entitled to such benefits in such month.

"(2) Any individual entitled to any other monthly insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to such benefits under section 202 of the Social Security Act, as amended by this Act, as though such individual became entitled to such benefits in such month.

"(3) Any individual who files application after August 1950 for monthly benefits under any subsection of section 202 of the Social Security Act [this section] who would, but for the enactment of this Act, be entitled to benefits under such subsection (as in effect prior to such enactment) for any month prior to September 1950 shall be deemed entitled to such benefits for such month prior to September 1950 to the same extent and in the same amounts as though this Act had not been enacted."

FILING OF PROOF OF SUPPORT BY HUSBAND OR WIDOWER

Section 157(c) of Pub. L. 90–248 provided that: "In the case of any husband who would not be entitled to husband's insurance benefits under section 202(c) of the Social Security Act [subsec. (c) of this section] or any widower who would not be entitled to widower's insurance benefits under section 202(f) of such Act [subsec. (f) of this section] except for the enactment of this section, the requirement in section 202(c)(1)(C) or 202(f)(1)(D) of such Act [subsec. (c)(1)(C) or (f)(1)(D) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month following the month in which this Act is enacted [Jan. 1968]."

EXTENSION OF FILING PERIOD FOR HUSBAND'S, WIDOWER'S, OR PARENT'S BENEFITS IN CERTAIN CASES

Section 210 of Pub. L. 86–778 provided that:

"(a) In the case of any husband who would not be entitled to husband's insurance benefits under section 202(c), of the Social Security Act [subsec. (c) of this section] except for the enactment of this Act, the requirement in section 202(c)(1)(C) of the Social Security Act [subsec. (c)(1)(C) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960].

"(b) In the case of any widower who would not be entitled to widower's insurance benefits under section 202(f)

of the Social Security Act [subsec. (f) of this section] except for the enactment of this Act, the requirement in section 202(f)(1)(D) of the Social Security Act [subsec. (f)(1)(C) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960].

"(c) In the case of any parent who would not be entitled to parent's insurance benefits under section 202(h) of the Social Security Act except for the enactment of this Act, the requirement in section 202(h)(1)(B) of the Social Security Act [subsec. (h)(1)(B) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960]."

PROOF OF SUPPORT BY CERTAIN WIDOWERS OR PARENTS

Section 103(c) of Pub. L. 87-64 provided that: "In the case of any widower or parent who would not be entitled to widower's insurance benefits under section 202(f) [subsec. (f) of this section], or parent's insurance benefits under section 202(h) [subsec. (h) of this section], of the Social Security Act except for the enactment of this Act (other than this subsection), the requirement in sections 202(f)(1)(D) and 202(h)(1)(B) [subsec. (f)(1)(D) and (h)(1)(B) of this section], respectively, of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed before the close of the 2-year period which begins on the effective date of this title [see note under this section]".

FILING OF PROOF OF SUPPORT BY HUSBAND, WIDOWER OR PARENT

Section 207 (b) of Pub. L. 85-840 provided that: "In the case of any husband, widower, or parent who would not be entitled to benefits under section 202(c), section 202(f), and section 202(h), respectively, of the Social Security Act [subsecs. (c), (f) and (h) of this section] except for the enactment of section 205 of this Act [amending subsecs. (b), (c)(1), (d)(1), (f)(1)(D), (g)(1)(F), (h)(1)(B), (k), and (q)(5), (6) of this section and sections 401(h), 403 (c), (h), 414(b), 415(g), 422(b)(3) and 425 of this title], the requirement in such section 202(c), section 202(f), or section 202(h), [subsec. (c), (f) or (h) of this section], as the case may be, that proof of support be filed within a two-year period shall not apply if such proof is filed within two years after the month in which this Act is enacted [August 1958]."

FILING OF PROOF OF SUPPORT BY PARENT

Section 304(c) of Pub. L. 85-840 provided that: "In the case of any parent who would not be entitled to parent's benefits under section 202(h) of the Social Security Act [subsec. (h) of this section] except for the enactment of this section, the requirement in such section 202(h) [subsec. (h) of this section] that proof of support be filed within two years of the date of death of the insured individual referred to therein shall not apply if such proof is filed within the two-year period beginning with the first day of the month after the month in which this Act is enacted [August 1958]."

DISREGARDING OASDI BENEFIT INCREASES AND CHILD'S INSURANCE BENEFIT PAYMENTS BEYOND AGE 18 TO THE EXTENT ATTRIBUTABLE TO RETROACTIVE EFFECTIVE DATE OF 1965 AMENDMENTS

Authorization to disregard, in determining need for aid or assistance under an approved State plan, amounts paid under this subchapter for months occurring after December 1964 and before October 1965 to the extent to which payment is attributable to the payment of child's insurance benefits under the old-age, survivors, and disability insurance system after attainment of age 18, in the case of individuals attending school, resulting from enactment of section 306 of Pub. L. 89-97, see section 406 of Pub. L. 89-97, set out as a note under section 415 of this title.

LUMP-SUM PAYMENTS WHERE DEATH OCCURRED PRIOR TO SEPT. 1, 1950

Section 101 (d) of act Aug. 28, 1950, as amended July 18, 1952, ch. 945, § 5(e)(1), 66 Stat. 775; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(a)(2), 74 Stat. 936, provided that: "Lump-sum death payments shall be made in the case of individuals who died prior to September 1950 as though this Act had not been enacted; except that in the case of any individual who died outside the forty-eight States and the District of Columbia after December 6, 1941, and prior to August 10, 1946, the last sentence of section 202 (g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act shall not be applicable if application for a lump-sum death payment is filed prior to September 1952, and except that in the case of any individual who died outside the forty-eight States and the District of Columbia on or after June 25, 1950, and prior to September 1950, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act [July 18, 1952] shall not prevent payment to any person under the second sentence thereof [subsec. (g) of this section] if application for a lump-sum death payment under such section with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment."

LUMP-SUM PAYMENTS FOR DEATHS BEFORE 1940; TIME LIMITATION

Lump-sum payments of 3½ percent of total wages paid with respect to employment after Dec. 31, 1936 and before reaching the age of 65 were provided for persons who were not qualified individuals upon reaching that age by section 204 of act Aug. 14, 1935, before amendment in 1939. Such lump-sum payments, except to the estate of an individual who died prior to Jan. 1, 1940, were prohibited after Aug. 10, 1939, by section 902 (g) of act Aug. 10, 1939. Section 415 of act Aug. 10, 1946, provided that no lump-sum payments shall be made under section 204 of the 1935 act or section 902 (g) of the 1939 act unless application therefor has been filed prior to the expiration of six months after Aug. 10, 1946.

DEATH OUTSIDE U.S.; EXTENSION OF FILING TIME FOR LUMP-SUM PAYMENTS

Section 5 (e) (2) of act July 18, 1952, ch. 945, 66 Stat. 775, as amended by Pub. L. 86-778, title I, § 103(a)(2), Sept. 13, 1960, 74 Stat. 936, provided that: "In the case of any individual who died outside the forty-eight States and the District of Columbia after August 1950 and prior to January 1954, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(i) of the Social Security Act [subsec. (i) of this section] shall not prevent payment to any person under the second sentence thereof if application for a lump-sum death payment with respect to such decreased individual is filed under such section by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment."

PAYMENT OF ANNUITIES TO OFFICERS AND EMPLOYEES OF THE UNITED STATES CONVICTED OF CERTAIN OFFENSES

Section 121(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) of this section [adding subsec. (u) of this section] shall not be construed to restrict or otherwise affect any of the provisions of the Act entitled 'An Act to prohibit payments of annuities to officers and employees of the United States convicted of certain offenses, and for other purposes', approved September 1, 1954 (Public Law 769, Eighty-third Congress) [formerly sections 2281—2288 of Title 5, and now covered by section 8311 et seq. of Title 5, Government Organization and Employees]."

APPLICATION FOR BENEFITS BY SURVIVORS OF MEMBERS AND FORMER MEMBERS OF UNIFORMED SERVICES

Forms for use by survivors of members and former members of the uniformed services in filing applications for benefits under this subchapter to be prescribed jointly by the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, see section 3005 of Title 38, Veterans' Benefits.

PAYMENTS OF ALIENS' BENEFITS WITHHELD UNDER FOREIGN DELIVERY RESTRICTION OF CHECKS AGAINST FEDERAL FUNDS

Section 162(c)(3) of Pub. L. 90-248 provided that:

"Whenever benefits which an individual who is not a citizen or national of the United States was entitled to receive under title II of the Social Security Act [this subchapter] are, on June 30, 1968, being withheld by the Treasury Department under the first section of the Act of October 9, 1940 (31 U.S.C. 123) [section 123 of Title 31, Money and Finance], any such benefits, payable to such individual for months after the month in which the determination by the Treasury Department that the benefits should be so withheld was made, shall not be paid—

"(A) to any person other than such individual, or, if such individual dies before such benefits can be paid, to any person other than an individual who was entitled for the month in which the deceased individual died (with the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to a monthly benefit under title II of such Act [this subchapter] on the basis of the same wages and self-employment income as such deceased individual, or

"(B) in excess of the equivalent of the last twelve months' benefits that would have been payable to such individual."

STUDY OF RETIREMENT TEST AND OF DRUG STANDARDS AND COVERAGE

Section 405 of Pub. L. 90-248 provided that:

"(a) The Secretary of Health, Education, and Welfare is authorized and directed to study (1) the existing retirement test and proposals for the modification of such test (including proposals for an increase in old-age insurance benefit amounts on account of delayed retirement), (2) quality and cost standards for drugs for which payments are made under the Social Security Act [this chapter], and (3) the coverage of drugs under part B of title XVIII of such Act [subchapter XVIII of this chapter].

"(b) On or before January 1, 1969, the Secretary shall transmit to the President and the Congress a report which shall contain his findings of fact and any conclusions or recommendations he may have."

DEFINITION OF "SECRETARY"

Section 304 of Pub. L, 87-64 provided that: "As used in this title and title I, and in the provisions of the Social Security Act amended thereby [see Short Title note under this section], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

Section 702 of Pub. L. 85-840 provided that: "As used in the provisions of the Social Security Act amended by this Act, [subsecs. (c) (1) (C) and (f) (1) (D) of this section and sections 403 (g) (1), 417 (h), 418 (d) (6), (f) (2), 702 (a) (2), 712 (a) (2), 721—725, 1301 (a) (8), 1306 (b), and 1308 of this title], the term "Secretary", unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare. See section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

CROSS REFERENCES

Survivor benefits under Railroad Retirement Act, correlation with payments under this chapter, see section 228e of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 403, 405, 415, 416, 417, 422, 423, 424a, 425, 426, 426a, 427, 428, 1395i-1, 1395s of this title; title 5 section 8332; title 20 section 880b-2; title 30 section 922; title 38 sections 412, 422; title 45 sections 228b, 228c, and 228e.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-1557a of the District of Columbia Code.

§ 403. Reduction of insurance benefits.

(a) Maximum benefits.

Whenever the total of monthly benefits to which individuals are entitled under sections 402 and 423 of this title for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column V of the table in section 415(a) of this title on the line on which appears in column IV such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

(1) when any of such individuals so entitled would (but for the provisions of section 402 (k) (2) (A) of this title) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits shall not be reduced to less than the smaller of: (A) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or (B) the last figure in column V of the table appearing in section 415 (a) of this title, or

(2) when two or more persons were entitled (without the application of section 402(j)(1) of this title and section 423(b) of this title) to monthly benefits under section 402 or 423 of this title for January 1970 on the basis of the wages and self-employment income of such insured individual and at least one such person was so entitled for December 1969 on the basis of such wages and self-employment income, such total of benefits for January 1970 or any subsequent month shall not be reduced to less than the larger of—

(A) the amount determined under this subsection without regard to this paragraph, or

(B) an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this subchapter (including this subsection, but without the application of section 422(b) of this title, section 402 (q) of this title, and subsections (b), (c), and (d) of this section), as in effect prior to December 30, 1969 (and prior to January 1, 1970), for each such person for such month, by 115 percent and raising each such increased amount, if it is not a multiple of $0.10, to the next higher multiple of $0.10;

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B), and (ii) if section 402(k)(2)(A) of this title was applicable in the case of any such benefits for January 1970, and ceases to apply after such month, the provisions of subparagraph (B) shall be applied, for and after the month in which section 402(k)(2)(A) of this title ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for January 1970, or

(3) when any of such individuals is entitled to monthly benefits as a divorced wife under section 402(b) of this title or as a surviving divorced wife

under section 402(e) of this title for any month, the benefit to which she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the wages and self-employment income of such insured individual shall be determined as if no such divorced wife or surviving divorced wife were entitled to benefits for such month.

In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, such reduction shall be made after any deductions under this section and after any deductions under section 422(b) of this title. Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased; except that if such total of benefits for such month includes any benefit or benefits under section 402(d) of this title which are payable solely by reason of section 416(h)(3) of this title, the reduction shall be first applied to reduce (proportionately where there is more than one benefit so payable) the benefits so payable (but not below zero).

(b) Deductions on account of work.

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual's wages and self-employment income, until the total of such deductions equals—

(1) such individual's benefit or benefits under section 402 of this title for any month, and

(2) if such individual was entitled to old-age insurance benefits under section 402(a) of this title for such month, the benefit or benefits of all other persons for such month under section 402 of this title based on such individual's wages and self-employment income,

if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clauses (1) and (2). If the excess earnings so charged are less than such total of benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's insurance benefits, is married to an individual entitled to old-age insurance benefits under section 402(a) of this title, such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f) of this section, be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to old-age insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 402 of this title for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f) of this section, only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsection and subsection (f) of this section—

(A) an individual shall be deemed to be entitled to payments under section 402 of this title equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of the penultimate sentence thereof; and

(B) if a deduction is made with respect to an individual's benefit or benefits under section 402 of this title because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 422(b) of this title, such individual shall not be considered to be entitled to any benefits under such section 402 for such month.

(c) Deductions on account of noncovered work outside the United States or failure to have child in care.

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 402 of this title for any month—

(1) in which such individual is under the age of seventy-two and or seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

(2) in which such individual, if a wife under age sixty-five entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit and such wife's insurance benefit for such month was not reduced under the provisions of section 402(q) of this title; or

(3) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

(4) in which such individual, if a surviving divorced mother entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 402(s) of this title applies or an event specified in section 422(b) of this title occurs with respect to such child. Subject to

paragraph (3) of such section 402(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 62.

(d) Deductions from dependent's benefits on account of noncovered work outside the United States by old-age insurance beneficiary.

(1) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 402 of this title for any month in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to old-age insurance benefits and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.

(e) Occurrence of more than one event.

If more than one of the events specified in subsections (c) and (d) of this section and section 422 (b) of this title occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

(f) Months to which earnings are charged.

For purposes of subsection (b) of this section—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402 (b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 402 (s) of this title, no part of the excess earnings of an individual shall be charged to any months (A) for which such individual was not entitled to a benefit under this subchapter, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to a widow's insurance benefits and has not attained age 62 (but only if she became so entitled prior to attaining age 60) or widower's insurance benefits and has not attained age 62, or (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than $140.

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), (D), and (E) thereof.

(3) For purposes of paragraph (1) and subsection (h) of this section, an individual's excess earnings for a taxable year shall be his earnings for such year in excess of the product of $140 multiplied by the number of months in such year, except that of the first $1,200 of such excess (or all of such excess if it is less than $1,200), an amount equal to one-half thereof shall not be included. The excess earnings as derived under the preceding sentence, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

(4) For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) an individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph

(5) of this subsection) of more than $140 until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5)(A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 411 of this title, except that paragraphs (1), (4), and (5) of section 411(c) of this title shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D) of this paragraph, and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in section 702(a)(9) of Title 26) taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 409 of this title; and in making such computation services which do not constitute employment as defined in section 410 of this title, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(D) In the case of an individual—

(i) who has attained the age of 65 on or before the last day of the taxable year, and

(ii) who shows to the satisfaction of the Secretary that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65 and that the property to which the copyright or patent relates was created by his own personal efforts,

there shall be excluded from gross income any such royalties.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 402 of this title for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this subchapter) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 402(k)(3) of this title, and prior to the application of section 403(a) of this title) bears to the total of the benefits to which all of them are entitled.

(g) Penalty for failure to report certain events.

Any individual in receipt of benefits subject to deduction under subsection (c) of this section, (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of any event specified therein who fails to report such occurrence to the Secretary prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred, shall suffer deductions in addition to those imposed under subsection (c) of this section as follows:

(1) if such failure is the first one with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than one month;

(2) if such failure is the second one with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to two times his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than two months; and

(3) if such failure is the third or a subsequent one for which an additional deduction is imposed under this subsection, such additional deduction shall be equal to three times his benefit or benefits for the first month of the period for which there is a failure to report even though the failure to report is with respect to more than three months;

except that the number of additional deductions required by this subsection shall not exceed the number of months in the period for which there is a failure to report. As used in this subsection, the term "period for which there is a failure to report" with respect to any individual means the period for which such individual received and accepted insurance benefits under section 402 of this title without making a timely report and for which deductions are required under subsection (c) of this section.

(h) Report of earnings to Secretary.

(1)(A) If an individual is entitled to any monthly insurance benefit under section 402 of this title during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of

subsection (f) of this section, in excess of the product of $140 times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection. The Secretary may grant a reasonable extension of time for making the report of earnings required in this paragraph if he finds that there is valid reason for a delay, but in no case may the period be extended more than three months.

(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of this subsection, no benefit payment shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this subchapter on the basis of the same wages and self-employment income, files with the Secretary information showing that a benefit for such month is payable to such individual.

(2) If an individual fails to make a report required under paragraph (1) of this subsection, within the time prescribed by or in accordance with such paragraph, for any taxable year and any deduction is imposed under subsection (b) of this section by reason of his earnings for such year, he shall suffer additional deductions as follows:

(A) if such failure is the first one with respect to which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title, except that if the deduction imposed under subsection (b) of this section by reason of his earnings for such year is less than the amount of his benefit (or benefits) for the last month of such year for which he was entitled to a benefit under section 402 of this title, the additional deduction shall be equal to the amount of the deduction imposed under subsection (b) of this section but not less than $10;

(B) if such failure is the second one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to two times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

(C) if such failure is the third or a subsequent one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to three times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

except that the number of the additional deductions required by this paragraph with respect to a failure to report earnings for a taxable year shall not exceed the number of months in such year for which such individual received and accepted insurance benefits under section 402 of this title and for which deductions are imposed under subsection (b) of this section by reason of his earnings. In determining whether a failure to report earnings is the first or a subsequent failure for any individual, all taxable years ending prior to the imposition of the first additional deduction under this paragraph, other than the latest one of such years, shall be disregarded.

(3) If the Secretary determines, on the basis of information obtained by or submitted to him, that it may reasonably be expected that an individual entitled to benefits under section 402 of this title for any taxable year will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year, the Secretary may, before the close of such taxable year, suspend the total or less than the total payment for each month in such year (or for only such months as the Secretary may specify) of the benefits payable on the basis of such individual's wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Secretary has determined whether or not any deduction is imposed for such month under subsection (b) of this section. The Secretary is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Secretary may specify, a declaration of his estimated earnings for the taxable year and that he furnish to the Secretary such other information with respect to such earnings as the Secretary may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year. If, after the close of a taxable year of an individual entitled to benefits under section 402 of this title for such year, the Secretary requests such individual to furnish a report of his earnings (as computed pursuant to paragraph (5) of subsection (f) of this section) for such taxable year or any other information with respect to such earnings which the Secretary may specify, and the individual fails to comply with such request, such failure shall in itself constitute justification for a determination that such individual's benefits are subject to deductions under subsection (b) of this section for each month in such taxable year (or only for such months thereof as the Secretary may specify) by reason of his earnings for such year.

(i) Circumstances under which deductions not required.

In the case of any individual, deductions by reason of the provisions of subsection (b), (c), (g), or (h) of this section, or the provisions of section 422 (b) of this title, shall, notwithstanding such provisions, be made from the benefits to which such individual is entitled only to the extent that such deductions reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to such individual and the other individuals living in the same household.

(j) Attainment of age seventy-two.

For the purposes of this section, an individual shall be considered as seventy-two years of age during the entire month in which he attains such age.

(k) Noncovered remunerative activity outside the United States.

An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute employment as defined in section 410 of this title, and are not performed in the active military or naval service of the United States or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which (1) is not includible in computing his net earnings from self-employment for a taxable year and (2) would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of section 411 (a) of this title. When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee), the term "United States" does not include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa in the case of an alien who is not a resident of the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa); and the term "trade or business" shall have the same meaning as when used in section 162 of Title 26, Internal Revenue Code of 1954.

(*l*) Good cause for failure to make reports required.

The failure of an individual to make any report required by subsection (g) or (h)(1)(A) of this section within the time prescribed therein shall not be regarded as such a failure if it is shown to the satisfaction of the Secretary that he had good cause for failing to make such report within such time. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary. (Aug. 14, 1935, ch. 531, title II, § 203, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 406, 60 Stat. 988; Aug. 28, 1950, ch. 809, title I, §§ 102 (a), 103 (a), 64 Stat. 489; July 18, 1952, ch. 945, §§ 2 (b) (2), 4 (a)—(d), 66 Stat. 768, 773; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, §§ 102 (e) (7), 103 (a)—(h), (i) (3), 112 (a), 68 Stat. 1070, 1073, 1078, 1085; Aug. 1, 1956, ch. 836, title I, §§ 101 (d)—(g), 102 (d) (11), 107 (a), 112 (a), (b), 70 Stat. 808, 814, 829, 831; Aug. 28, 1958, Pub. L. 85-840, title I, § 101 (f), title II, § 205 (j), (k), title III, §§ 307(f), 308 (a)—(e), 72 Stat. 1017, 1024, 1032, 1033; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(b), title II, §§ 209(a), 211(a)—(h), title III, § 302(a), 74 Stat. 936, 953—955, 957, 960; June 30, 1961, Pub. L. 87-64, title I, § 108(a), 75 Stat. 140; July 30, 1965, Pub. L. 89-97, title III, §§ 301(c), 306(c) (10)-(12), 308(d) (6)-(8), 310(a), 325(a), 79 Stat. 363, 373, 378—380, 399; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 101(b), 104(d)(1), 107(a), 160, 161(a), (b), 163(a)(1), 81 Stat. 826, 832, 834, 870, 872; Dec. 30, 1969, Pub. L. 91-172, title X, § 1002(b)(1), 83 Stat. 739.)

AMENDMENTS

1969—Subsec. (a)(2). Pub. L. 91-172 substituted references to January 1970 for references to February 1968, and, in subpar. (B), substituted "prior to December 30, 1969 (and prior to January 1, 1970)" for "prior to February 1968", and raised the multiple of the benefit amount from 113 percent to 115 percent.

1968—Subsec. (a). Pub. L. 90-248, § 163(a)(1), provided for reduction of benefits in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual and that where such total of benefits for such month includes any benefit or benefits under section 402(d) of this title which are payable solely by reason of section 416(h)(3) of this title, the reduction shall be first applied to reduce (proportionately where there is more than one benefit so payable) the benefits so payable (but not below zero).

Subsec. (a)(2). Pub. L. 90-248, § 101(b), substituted references to February 1968 for former references to December 1964 and for former references to the enactment of the Social Security Amendments of 1965, increased the multiple of the benefit amount from 107 to 113 percent, and deleted former clause (ii) which provided that the total of monthly benefits shall not be reduced to less than the larger of the amount determined under subpar. (A) or with respect to any month after the month in which the Social Security Amendments of 1965 are enacted, an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this subchapter (including subsection (a) of this section, but without the application of section 422(b) of this title, section 402(q) of this title, and subsections (b), (c) and (d) of this section), as in effect prior to the enactment of such Amendments, for each such person (other than a person who would not be entitled to such benefits for such month without the application of the amendments made by section 306 of the Social Security Amendments of 1965) for the month of enactment, by 107 percent and raising each such increased amount, if it is not a multiple of $0.10, to the next higher multiple of $0.10.

Subsec. (c). Pub. L. 90-248, § 104(d)(1)(A), inserted after "any subsequent month" in third sentence "; nor shall any deduction be made under this subsection from any widow's insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 62".

Subsec. (f)(1). Pub. L. 90-248, §§ 104(d)(1)(B), 107(a)(1), added in third sentence subpar. (D) and redesignated existing provisions as subpar. (E), and substituted "$140" for "125."

Subsec. (f)(2). Pub. L. 90-248, § 104(d)(1)(C), substituted "(D), and (E)" for "and (D)".

Subsec. (f)(3). Pub. L. 90-248, § 107(a)(1), substituted "$140" for "$125".

Subsec. (f)(4). Pub. L. 90-248, § 104(d)(1)(D), substituted "(E)" for "(D)".

Subsec. (f)(4)(B). Pub. L. 90-248, 107(a)(1), substituted "$140" for "$125".

Subsec. (g). Pub. L. 90-248, § 161(b), substituted provisions that the penalty for the first failure to report will

equal one month's benefit, for the second failure to report—two month's benefits, for the third or a subsequent failure to report—three month's benefits but in no case will the penalty exceed the number of months in the period for which there is a failure to report, and defining "period for which there is a failure to report" for present provisions that the penalty for the first failure to report is one month's benefit and for subsequent failures, the penalty is an amount equal to the total amount of the benefits for all the months in which the event occurred but was not reported within the prescribed time.

Subsec. (h)(1)(A). Pub. L. 90-248, §§ 107(a)(2), 160(a), added last sentence authorizing the Secretary to extend time to report earnings up to three months if there is a valid reason for delay, and substituted "$140" for "$125."

Subsec. (h)(2). Pub. L. 90-248, § 160(b), substituted in text preceding subpar. (A) "by or in accordance with such paragraph" for "therein".

Subsec. (h)(2)(A). Pub. L. 90-248, § 161(a), inserted exception provision that if the deduction is less than the amount of his benefits for the last month for which he was entitled to benefits, the additional deduction will be the amount of the deduction under subsec. (b) but not less than ten dollars.

1965—Subsec. (a)(2). Pub. L. 89-97, § 301(c), substituted provisions to assure an increase in the family benefits for families who were on the benefit rolls after December 1964 and whose benefits were determined under former provisions by providing that the maximum family benefit of each month after December 1964 will be the larger of (1) the family maximum specified in column V of the new table or (2) the sum of all family members' benefits after each such benefit has been increased by seven percent (and rounded to the next higher ten cents if it is not already a multiple of ten cents), for former provisions restricting the reduction of total benefits to individuals entitled to monthly benefits under section 402 or 423 of this title for December 1958.

Subsec. (a)(3). Pub. L. 89-97, §§ 301(c), 308(d)(6), struck out former par. (3) which was a special saving clause for maximum family benefits of people who became disabled before 1959 since families whose benefits were determined under such par. (3) are now covered by subsec. (a)(2) of this section, and added par. (3), respectively.

Subsec. (c). Pub. L. 89-97, § 306(c)(10), (11), inserted in the next to last sentence "paragraph (1) of section 402(s) of this title applies or" following "for any month in which" and in the last sentence the introductory phrase "Subject to paragraph (3) of such section 402(s)", respectively.

Subsec. (c)(4). Pub. L. 89-97, § 308(d)(7), substituted "surviving divorced mother" for "former wife divorced".

Subsec. (d)(1). Pub. L. 89-97, § 308(d)(8), inserted "divorced wife," following "wife,".

Subsec. (f)(1). Pub. L. 89-97, §§ 306(c)(12), 310(a)(1), inserted "but subject to section 402(s) of this title" following "Notwithstanding the preceding provisions of this paragraph" in the last sentence and substituted "$125" for "$100", respectively.

Subsec. (f)(3). Pub. L. 89-97, § 310(a)(1), (2), substituted "$125" for "$100" and "$1,200" for "$500" in two instances respectively.

Subsec. (f)(4)(B). Pub. L. 89-97, § 310(a)(1), substituted "$125" for "$100".

Subsec. (f)(5)(B). Pub. L. 89-97, § 325(a)(1), broke down existing provisions into clauses (i) and (ii), provided, in clause (ii), for exclusion from gross income of amounts provided by subpar. (D) of this par., and, in clause (ii), inserted reference to distributive share of loss described in section 702(a)(9) of Title 26.

Subsec. (f)(5)(D). Pub. L. 89-97, § 325(a)(2), added subpar. (D).

Subsec. (h)(1)(A). Pub. L. 89-97, § 310(a)(3), substituted "$125" for "$100".

1961—Subsec. (f)(3). Pub. L. 87-64 substituted "$500" for "$300" in two instances.

1960—Subsec. (a)(3). Pub. L. 86-778, § 302(a), substituted ", then such total of benefits shall not be reduced to less than $99.10 if such primary insurance amount is $66, to less than $102.40 if such primary insurance amount is $67, to less than $106.50 if such primary insurance amount is $68, or, if such primary insurance amount is higher than $68, to less than the smaller of" for "and is not less than $68, then such total of benefits shall not be reduced to less than the smaller of" in the provisions following cl. (B), and "the amount determined under this subsection without regard to this paragraph, or $206.60, whichever is larger" for "the last figure in column V of the table appearing in section 415(a) of this title" in cl. (C).

Subsec. (b). Pub. L. 86-778, § 211(a), amended subsec. (b) generally, and among other changes, authorized deductions from payments to which any other persons are entitled on the basis of an individual's wages and self-employed income, substituted provisions requiring deductions for months in which an individual is charged with excess earnings under the provisions of subsec. (f) of this section for provisons which required deductions for months in which an individual is charged with any earnings under the provisions of subsec. (e) of this section, and inserted the second, third, fourth and fifth sentences. Former clauses (2)—(5) and the closing paragraph of subsec. (b) are now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86-778, § 211(b), redesignated the opening provisions, clauses (2)—(5) and the closing provisions of former subsec. (b) of this section as the opening provisions, clauses (1)—(4) and the closing provisions of subsec. (c), respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 86-778, § 211(c), added subsec. (d) and redesignated former subsec. (d) as (e). Provisions of subsec. (d) were formerly contained in subsec. (c) of this section.

Subsec. (e). Pub. L. 86-778, § 211 (c) (d), redesignated former subsec. (d) as (e), substituted "subsections (c) and (d) of this section" for "subsections (b) and (c) of this section", and eliminated provisions which required the charging of any earnings to any month to be treated as an event occurring in such month. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 86-778, § 211 (c), (e), redesignated former subsec. (e) as (f), and amended such subsection by inserting pars, (3) and (7), substituting provisions requiring an amount of an individual's excess earnings equal to the sum of the payments to which he and all other persons are entitled for the month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum) to be charged to the first month of the taxable year, and the balance, if any, of such excess earnings to be charged to each succeeding month in such year to the extent, in the case of each month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions which required the first $80 of earnings in excess of $1,200 to be charged to the first month of the taxable year, and the balance, if any, at the rate of $80 per month to each succeeding month in such year until all of the balance has been applied, and adding provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402 (b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, to be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 86-778, §§ 209(a), 211(c), redesignated former subsec. (f) as (g), and substituted therein "subsection (c) of this section" for "subsection (b) or (c) of this section" in two instances, and eliminated words "(other than an event specified in subsection (b)(1) or (c)(1) of this section)" which followed "of an event specified therein." Former subsec. (g) was redesignated (h).

Subsec. (h). Pub. L. 86–778, § 211(c), (f), redesignated former subsec. (g) as (h), and substituted therein "paragraph (5) of subsection (f) of this section" for "paragraph (4) of subsection (e) of this section" in two instances, "paragraph (3) of this subsection" for "paragraph (3) of subsection (g) of this section", "subsection (b) of this section" for "subsection (b)(1) of this section" in five instances, and "suspend the total or less than the total payment" for "suspend the payment." Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 86–778, § 211 (c), (g), redesignated former subsec. (h) as (i) and substituted therein "subsection (b), (c), (g), or (h) of this section" for "subsection (b), (f), or (g) of this section." Former subsec. (i) was repealed by Act Sept. 1, 1954, c. 1206, Title I, § 112(a), 68 Stat. 1085.

Subsec. (k). Pub. L. 86–778, § 103(b), substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam or American Samoa" for "Puerto Rico or the Virgin Islands", and "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa" for "Puerto Rico and the Virgin Islands."

Subsec. (*l*). Pub. L. 86–778, § 211(h), substituted "subsection (g) or (h)(1)(A) of this section" for "subsection (f) or (g)(1)(A) of this section."

1958—Subsec. (a). Pub. L. 85–840, § 101(f), substituted provisions limiting the total of monthly benefits under sections 402 and 423 of this title to the amount provided in column V of the table in section 415 (a) of this title for provisions which limited the total of monthly benefits under section 402 of this title to $50, or 80% of the average monthly wage, or one and one-half times the primary insurance amount, whichever is greater, with a maximum amount of $200, and inserted provisions limiting the reduction for individuals who were entitled to monthly benefits under section 402 or 423 of this title for December 1958, and for individuals entitled to monthly benefits with respect to whom a period of disability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title, or he died, whichever first occurred.

Subsec. (c). Pub. L. 85–840, § 205(j), inserted ", based on the wages and self-employment income of an individual entitled to old-age insurance benefits," preceding "to which a wife" in the opening provisions of par. (1), and Pub. L. 85–840, § 307(f), designated existing provisions of subsec. (c) as par. (1), redesignated subpars. (1) and (2) of par. (1) as subpars. (A) and (B), substituted in subpar. (B) of par. (1) "subparagraph (A)" for "paragraph (1)", and added par. (2).

Subsec. (e)(2). Pub. L. 85–840, § 308 (a), (c), substituted "first month" for "last month" and "succeeding month" for "preceding month" wherever appearing, and "$100" for "$80" in cl. (D).

Subsec. (e)(3). Pub. L. 85–840, § 308 (b), (c), substituted "the term 'first month of such taxable year' means the earliest month" for "the term 'last month of such taxable year' means the latest month" in cl. (A), and "$100" for "$80" in cl. (B) (ii).

Subsec. (g)(1). Pub. L. 85–840, § 308 (d), designated existing provisions thereof as subpar. (A) and inserted provisions therein dispensing with the need for a report for any taxable year if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of par. (3) of this subsection, and added subpar. (B).

Subsec. (h). Pub. L. 85–840, § 205 (k), eliminated provisions that related to reductions by reason of the provisions of section 424 of this title.

Subsec. (*l*). Pub. L. 85–840, § 308 (e), substituted "(g)(1)(A) of this section" for "(g) of this section".

1956—Subsec. (a). Act Aug. 1, 1956, § 101 (d), inserted "after any deductions under section 422 (b) of this title, and after any reduction under section 424 of this title" in two instances.

Subsec. (b). Act Aug. 1, 1956, § 101 (e), inserted paragraph providing that a child should not be considered to be entitled to a child's insurance benefit for any month in which an event specified in section 422 (b) of this title occurs with respect to such child, and prohibiting any deduction from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of 18 or any subsequent month.

Subsec. (b)(3). Act Aug. 1, 1956, § 102 (d) (11), substituted "age 65" for "retirement age" and inserted "any such wife's insurance benefit for such month was not reduced under the provisions of section 402 (q) of this title".

Subsec. (d). Act Aug. 1, 1956, § 101 (f), included events specified in section 422 (b) of this title.

Subsec. (e)(4)(C). Act Aug. 1, 1956, § 112(a), inserted "or performed outside the United States in the active military or naval service of the United States" after "performed within the United States by the individual as an employee".

Subsec. (g)(1). Act Aug. 1, 1956, § 107(a), permitted reports to be made on or before the fifteenth day of the fourth month following the close of the year.

Subsec. (h). Act Aug. 1, 1956, § 101(g), included deductions by reason of the provisions of section 422(b) of this title, and reductions by reason of the provisions of section 424 of this title.

Subsec. (k). Act Aug. 1, 1956, § 112(b), inserted "and are not performed in the active military or naval service of the United States" following "section 410 of this title".

1954—Subsec. (a). Act Sept. 1, 1954, § 102(e)(7), increased maximum limitations on the total monthly amount of benefits.

Subsec. (b) (1), (2). Act Sept. 1, 1954, § 103 (a), (i)(3), put into effect an annual retirement test for beneficiaries whether they have wage or self-employment earnings, or both, added a provision for making deductions on account of nonrecovered remunerative activity outside the United States, and provided that deductions because of such provisions be made from an individual's benefits only for months in which he is under the age of 72, rather than 75.

Subsec. (c). Act Sept. 1, 1954, § 103 (b), (i)(3), provided that deductions be made from a dependent's benefits for any month in which the primary beneficiary was under the age of 72, and for which he was charged with any earnings for work deduction purposes under subsec. (e) or on 7 or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

Subsec. (d). Act Sept. 1, 1954, § 103(c), provided that the charging of earnings shall be treated as an event occurring in the month to which such earnings are charged.

Subsec. (e) (1), (2). Act Sept. 1, 1942, § 103 (d) (1), (2), (i) (3), provided a method for charging earnings to particular months of the year for purposes of determining the deductions required under subsecs. (b) and (c).

Subsec. (e)(3)(B). Act Sept. 1, 1954, § 103(d)(3), provided authority to presume, for purposes of charging earnings to calendar months, that an individual rendered services for wages of more than $80 in any month.

Subsec. (e) (4), (5). Act Sept. 1, 1954, § 103(d)(4), added subsec. (e)(4), (5).

Subsec. (f). Act Sept. 1, 1954, § 103 (e), clarified the penalty provisions.

Subsec. (g). Act Sept. 1, 1954, § 103(f)(1), amended catchline.

Subsec. (g)(1). Act Sept. 1, 1954, § 103 (f) (2), (3), provided that if an individual entitled to any monthly benefit in a taxable year has earnings or wages in excess of $100 times the number of months in such year, he must make a report to the Secretary of his earnings for such taxable year, and substituted "seventy-two" for "seventy-five".

Subsec. (g)(2). Act Sept. 1, 1954, § 103(f)(4), provided a schedule of penalty deductions for failure to make required reports within the time prescribed by subsec. (g)(1) if any deduction is imposed because of earnings in such year.

Subsec. (g)(3). Act Sept. 1, 1954, § 103(f)(5), substituted "subsection (b)(1)" for "subsection (b)(2)", "earnings" for "net earnings from self-employment", and "such earnings" for "such net earnings", and added a new sentence at the end.

Subsec. (i). Act Sept. 1, 1954, § 112(a), repealed subsec. (i), effective Sept. 1, 1954, and also provided that no deductions should be made pursuant to such subsec. (i) from any benefits for any month after August 1954.

Subsec. (j). Act Sept. 1, 1954, § 103 (f)(6), (i)(3), substituted "seventy-two" for "seventy-five".

Subsec. (k). Act Sept. 1, 1954, § 103(g), added subsec. (k).

Subsec. (*l*). Act Sept. 1, 1954, § 103(h), added subsec. (*l*).

1952—Subsec. (a). Act July 18, 1952, § 2(b)(2), increased the maximum and minimum monthly benefits payable a family.

Subsecs. (b) (1), (2), (c) (1), (2), (e), and (g). Act July 18, 1952, § 4 (a)—(d), substituted $75 for $50 wherever appearing.

1950—Subsec. (a). Act Aug. 28, 1950, § 102(a), amended subsec. (a) generally to consolidate provisions of former subsecs. (a)—(c) of this section and to liberalize the maximum amount of monthly benefits payable.

Subsec. (b). Act Aug. 28, 1950, § 103(a), provided that deductions are to be made from benefits for any month in which a beneficiary is under age 75 and either renders services for wages of more than $50, or is charged with net earnings from self-employment of more than $50, and provided that deductions are to be made for any month in which a wife, widow or divorced wife does not have in her care a child or her husband or former husband entitled to a child's insurance benefit.

Subsec. (c). Act Aug. 28, 1950, § 103(a), provided for the making of deductions from dependents benefits for any month in which the old-age beneficiary suffers a reduction in his benefit.

Subsec. (d). Act Aug. 28, 1950, § 103(a), added second sentence.

Subsec. (e). Act Aug. 28, 1950, § 103(a), provided the method for charging net earnings from self-employment to the particular months of the taxable year for the purpose of determining deductions under subsecs. (b)(2) and (c)(2) of this section.

Subsec. (f). Act Aug. 28, 1950, § 103(a), continued provisions requiring the reporting of any event which causes a deduction from benefits.

Subsec. (g). Act Aug. 28, 1950, § 103(a), outlined circumstances under which beneficiaries with net earnings from self-employment are required to file report with the Federal Security Administrator.

Subsec. (h). Act Aug. 28, 1950, § 103(a), pointed out circumstances under which deductions otherwise required under subsecs. (b), (f), and (g) of this section will not be made.

Subsecs. (i), (j). Act Aug. 28, 1950, § 103(a), added subsecs. (i) and (j).

1946—Subsec. (g). Act Aug. 10, 1946, § 406 (b), added exception limiting the first deduction for failure to report to one month's benefit.

Subsec. (d)(2). Act Aug. 10, 1946, § 406(a), which related to deductions for failure to attend school.

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment of subsec. (a)(2) of this section by Pub. L. 91–172 applicable with respect to monthly benefits under this subchapter for months after Dec., 1969 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after December 1969, see section 1002(e) of Pub. L. 91–172, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2) by section 101(b) of Pub. L. 90–248 applicable with respect to monthly benefits and lump-sum death benefits in the case of deaths occurring after January 1968, under this subchapter for months after January 1968, see section 101(e) of Pub. L. 90–248 set out as a note under section 415 of this title.

Amendment of subsecs. (c), (f)(1), (2), (4) of this section by section 104 of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90–248 set out as a note under section 402 of this title.

Section 107(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [to subsecs. (f)(1), (3), (4)(B), and (h)(1)(A) of this section] shall apply with respect to taxable years ending after December 1967."

Section 163(a)(2) of Pub. L. 90–248 provided that: "The amendment made by paragraph (1) [to subsec. (a) of this section] shall apply only with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] with respect to individuals who become entitled to benefits under section 202(d) of such Act [section 402(d) of this title] solely by reason of section 216(h)(3) of such Act [section 416(h)(3) of this title] in or after January 1968 (but without regard to section 202(j)(1) of such Act [section 402(j)(1) of this title]). The provisions of section 170 of this Act [set out as a note under this section] shall not apply with respect to any such individual."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a) of this section by section 301(c) of Pub. L. 89–97 applicable with respect to monthly benefits under this subchapter for months after December 1964 and with respect to lump-sum death benefits payments under this subchapter in the case of deaths occurring in or after July 1965, see section 301(d) of Pub. L. 89–97, set out as a note under section 415 of this title

Amendment of subsecs. (a)(3), (c)(4), and (d)(1) of this section by section 308 of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Section 310(b) of Pub. L. 89–97 provided that: "The amendments made by subsection (a) [to subsecs. (f) (1), (3), (4)(B) and (h)(1)(A) of this section] shall apply with respect to taxable years ending after December 31, 1965."

Section 325(b) of Pub. L. 89–97 provided that: "The amendments made by subsection (a) [to subsec. (f)(5)(B), (D) of this section] shall apply with respect to the computation of net earnings from self-employment and the net loss from self-employment for taxable years beginning after 1964."

EFFECTIVE DATE OF 1961 AMENDMENT

Section 108(b) of Pub. L. 87–64 provided that: "The amendment made by subsection (a) [to subsec. (f)(3) of this section] shall apply in the case of taxable years ending after the enactment of this Act [June 30, 1961]."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 302(b) of Pub. L. 86–778 provided that: "The amendments made by subsection (a) [to subsec. (a)(3) of this section] shall apply only in the case of monthly benefits under section 202 or section 223 of the Social Security Act [section 402 or section 423 of this title] for months after the month following the month in which this Act is enacted [Sept. 1960], and then only (1) if the insured individual on the basis of whose wages and self-employment income such monthly benefits are payable became entitled (without the application of section 202(j)(1) or section 223(b) of such Act [section 402(j)(1) or section 423(b) of this title]) to benefits under section 202(a) or section 223 of such Act [section 402(a) or section 423 of this title] after the month following the month in which this Act is enacted [Sept. 1960], or (2) if such insured individual died before becoming so entitled and no person was entitled (without the application of section 202(j)(1) or section 223(b) of such Act [section 402(j)(1) or section 423(b) of this title]) on the basis of such wages and self-employment income to monthly benefits under title II of the Social Security Act [this subchapter] for the month following the month in which this Act is enacted [Sept. 1960] or any prior month."

Section 211 (p)—(s) of Pub. L. 86–778 provided that:

"(p) Section 203 (c), (d), (e), (g), and (i) of the Social Security Act as amended by this Act [subsecs. (c), (d), (e), (g), and (i) of this section] shall be effective with respect to monthly benefits for months after December 1960.

"(q) Section 203 (b), (f), and (h) of the Social Security Act as amended by this Act [subsecs. (b) (f) and (h) of this section] shall be effective with respect to taxable years beginning after December 1960.

"(r) Section 203(*l*) of the Social Security Act as amended by this Act [subsec. (*l*) of this section], to the extent that it applies to section 203(g) of the Social Security Act as amended by this Act [subsec. (g) of this section], shall be effective with respect to monthly benefits for months after December 1960 and, to the extent that it applies to section 203(h)(1)(A) of the Social Security Act as amended by this Act [subsec. (h)(1)(A) of this section], shall be effective with respect to taxable years beginning after December 1960.

"(s) The amendments made by subsections (i), (j), (k), (*l*), (m), (n), and (*o*) of this section [to sections 402 (n)(1), (q)(5), (6), (t)(7), 408(a)(3), and 415(g) of this title and sections 228c and 228e of Title 45], to the extent that they make changes in references to provisions of section 203 of the Social Security Act [this section], shall take effect in the manner provided in subsections (p) and (q) of this section for the provisions of such section 203 to which the respective references so changed relate."

Amendment of subsec. (k) of this section by Pub. L. 86–778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (a) of this section by Pub. L. 85–840 applicable in the case of monthly benefits under subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101 (g) of Pub. L. 85–840, set out as a note under section 415 of this title.

Amendment of subsec. (c) of this section by section 205 of Pub. L. 85–840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207 (a) of Pub. L. 85–840, set out as a note under section 416 of this title.

Section 307 (h) (2) of Pub. L. 85–840 provided that: "The amendments made by subsection (f) [to subsec. (c) (1), (2) of this section] shall apply with respect to monthly benefits under subsection (d) or (g) of section 202 of the Social Security Act [subsec. (d) or (g) of section 402 of this title] for months in any taxable year, of the individual to whom the person entitled to such benefits is married, beginning after the month in which this Act is enacted [August 1958]."

Section 308 (f) of Pub. L. 85–840 provided that: "The amendments made by this section [to subsecs. (e) (2), (3), (g) (1) and (*l*) of this section] shall be applicable with respect to taxable years beginning after the month in which this Act is enacted [August 1958]."

Amendment of subsec. (h) of this section by section 205 (k) of Pub. L. 85–840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207 (a) of Pub. L. 85–840, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subsecs. (a), (b), (d), and (h) of this section by section 101 (d)—(g) of act Aug. 1, 1956, applicable with respect to monthly benefits under section 402 of this title for months after December 1956, but only on the basis of an application filed after September 1956, see section 101 (h) of act Aug. 1, 1956, set out as a note under section 402 of this title.

Section 107 (a) of act Aug. 1, 1956, provided in part that the amendment to subsec. (g) (1) of this section shall be applicable in the case of monthly benefits under this subchapter for months in any taxable year (of the individual entitled to such benefits) beginning after 1954.

Section 112 (c) of act Aug. 1, 1956, provided that: "The amendments made by subsections (a) and (b) [to subsecs. (e)(4)(C) and (k) of this section] shall be applicable with respect to taxable years ending after 1955."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 103 (i) (1) and (2) of act Sept. 1, 1954, provided that:

"(1) The amendments [to subsecs. (g) and (b)(1)] made by subsection (f) and by paragraph (1) of subsection (a) of this section shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months in any taxable year (of the individual entitled to such benefits) beginning after December 1954. The amendments [to subsec. (c) (1)] made by paragraph (1) of subsection (b) of this section shall be applicable in the case of monthly benefits under such title II for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) beginning after December 1954. The amendments [to subsecs. (f), (k), (b) (2), and (c) (2)] made by subsections (e) and (g), and by paragraph (2) of subsection (a) and paragraph (2) of subsection (b), shall be applicable in the case of monthly benefits under such title II for months after December 1954. The remaining amendments made by this section (other than [the adding of subsec. (*l*) by] subsection (h)) shall be applicable, insofar as they are related to the monthly benefits of an individual which are based on his wages and self-employment income, in the case of monthly benefits under such title II for months in any taxable year (of such individual) beginning after December 1954 and, insofar as they are related to the monthly benefits of an individual which are based on the wages and self-employment income of someone else, in the case of monthly benefits under such title II for months in any taxable year (of the individual on whose wages and self-employment income such benefits are based) beginning after December 1954.

"(2) No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 1, 1954] under subsection (f) or (g) of section 203 of the Social Security Act [subsecs. (f) or (g) of this section], as in effect prior to such date, on account of failure to file a report of an event described in subsection (b) (1), (b) (2), or (c) (1) of such section [this section] (as in effect prior to such date); and no such deduction imposed prior to such date shall be collected after such date. In determining whether, under section 203 (g) (2) of the Social Security Act, as amended by this Act [subsec. (g) (2) of this section], a failure to file a report is a first or subsequent failure, any failure with respect to a taxable year which began prior to January 1955 shall be disregarded."

Amendment to subsec. (a) by act Sept. 1, 1954, § 102 (e)(7), applicable in the case of lump-sum death payments under section 402 of this title with respect to deaths occurring, and in the case of monthly benefits under such section for months after, August 1954, see note set out under section 415 of this title.

Subsecs. (b) (1), (b) (2), (c), (e) and (j) as in effect prior to Sept. 1, 1954, to the extent that they were in effect with respect to months after 1954, were each amended by act Sept. 1, 1954, § 103 (i) (3), which substituted "seventy-two" for "seventy-five", but only with respect to such months after 1954.

EFFECTIVE DATE OF 1952 AMENDMENT

For effective date of amendment of subsec. (a) by act July 18, 1952, see note set out under section 415 of this title.

Section 4 (e) of act July 18, 1952, provided that: "The amendments made by subsection (a) [to subsecs. (b) (1) and (c) (1) of this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after August 1952. The amendments made by subsection (b) [to subsec. (b) (2) of this section] shall apply in the case of monthly benefits under such title II [this subchapter] for months in any taxable year (of the individual entitled to such benefits) ending after August 1952. The amendments made by subsection (c) [to subsec. (c) (2) of this section] shall apply in the case of monthly benefits under such title II [this subchapter] for months in any taxable

year (of the individual on the basis of whose wages and self-employment income such benefits are payable) ending after August 1952. The amendments made by subsection (d) [to subsecs. (e), (g) of this section] shall apply in the case of taxable years ending after August 1952. As used in this subsection, the term "taxable year" shall have the meaning assigned to it by section 211 (e) of the Social Security Act [section 411 (e) of this title]."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 102 (b) of act Aug. 28, 1950, provided that the amendment of subsection (a) by said act Aug. 28, 1950, should be applicable with respect to benefits for months after August 1950.

Section 103 (b) of act Aug. 28, 1950, provided that: "The amendments made by this section shall take effect September 1, 1950, except that the provisions of subsections (d), (e), and (f) of section 203 of the Social Security Act [subsections (d)—(f) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] shall be applicable for months prior to September 1950."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

SAVINGS PROVISIONS

Section 1002(b)(2) of Pub. L. 91–172 provided that: "Notwithstanding any other provisions of law, when two or more persons are entitled to monthly insurance benefits under title II of the Social Security Act [this subchapter] for any month after 1969 on the basis of the wages and self-employment income of an insured individual (and at least one of such persons was so entitled for a month before January 1971 on the basis of an application filed before 1971), the total of the benefits to which such persons are entitled under such title of such month (after the application of sections 203(a) and 202(q) of such Act [sections 403(a) and 402(q) of this title]) shall be not less than the total of the monthly insurance benefits to which such persons would be entitled under such title for such month (after the application of such sections 203(a) and 202(q) [sections 403(a) and 402(q) of this title]) without regard to the amendment made by subsection (a) of this section [amending tables set out in section 415(a) of this title]."

Section 170 of Pub. L. 90–248 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under section 202 or 223 of such Act [section 402 or 423 of this title] for January 1968 on the basis of the wages and self-employment income of an individual, and

"(2) one or more persons (not included in paragraph (1)) become entitled to monthly benefits under such section 202 [section 402 of this title] for February 1968 on the basis of such wages and self-employment by reason of the amendments made to such Act [this chapter] by sections 104 [to sections 402(e)(1)(B), foll. (E), (F), (G), 5, 6, (f)(1)(B), (F), (G), 3, 6, 7, (q), (q)(1)(A), (C), (D), 3(A), (C)–(G), 6, 7, 9, 403(c), (f)(1), (2), (4), 416(i)(1), 422(a), (b)(1), (d)(1)(C), (D), and 425 of this title], 112 [to section 402(d) (8) (E) of this title], 150 [to section 416(e) second sent. of this title], 151 [to section 402(d)(3)–(10), (s)(2), (3) of this title and section 228e(*l*)(1) of Title 45], 156 [to section 416(c)(5), (e) first sent., (g)(5), (k) of this title], and 157 of this Act [to section 402(c)(1), (2), (f)(1), (2), and 402 note of this title], and

"(3) the total of benefits to which all persons are entitled under such section 202 or 223 [section 402 or 423 of this title] on the basis of such wages and self-employment for February 1968 are reduced by reason of section 203(a) of such Act [subsec. (a) of this section], as amended by this Act (or would, but for the penultimate sentence of such section 203(a) [subsec. (a) of this section], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after January 1968 shall be increased, after the application of such section 203(a) [subsec. (a) of this section], to the amount it would have been if the person or persons referred to in paragraph (2) were not entitled to a benefit referred to in such paragraph."

Section 102 (h) of act Sept. 1, 1954, provided that:

"(1) Where—

"(A) an individual was entitled (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1954;

"(B) one or more other persons were entitled (without the application of such section 202 (j) (1) [section 402 (j) (1) of this title]) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

"(C) the total of the benefits to which all persons are entitled under such title on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of section 203 (a) of the Social Security Act, as amended by this Act [subsec. (a) of this section],

then the total of benefits referred to in clause (C) for such subsequent month shall be reduced to whichever of the following is the larger—

"(D) the amount determined pursuant to section 203 (a) of the Social Security Act, as amended by this Act [subsec. (a) of this section]; or

"(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [Sept. 1, 1954], for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments [to section 415 of this title and subsec. (a) of this section] made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month, or

"(F) the amount determined pursuant to section 2 (d) (1) of the Social Security Act Amendments of 1952 [set out as a note under section 415 of this title] for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month.

"(2) Where—

"(A) two or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act [section 402(j) (1) of this title]) to monthly benefits under title II of such Act [this subchapter] for August 1954 on the basis of the wages and self-employment income of a deceased individual; and

"(B) to total of the benefits to which all such persons are entitled on the basis of such deceased individual's wages and self-employment income for any subsequent month would (but for the provisions of this paragraph) be reduced by reason of the application of the first sentence of section 203 (a) of the Social Security Act, as amended by this Act [subsec. (a) of this section],

then, notwithstanding any other provision in title II of the Social Security Act [this subchapter], such deceased individual's average monthly wage shall, for purposes of such section 203 (a) [subsec. (a) of this section], be whichever of the following is the larger:

"(C) his average monthly wage determined pursuant to section 215 of such Act, as amended by this Act [section 415 of this title]; or

"(D) his average monthly wage determined under such section 215, as in effect prior to the enactment of this Act [Sept. 1, 1954], plus $7."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government

Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" in subsecs. (d) and (g) by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

PENALTIES FOR FAILURE TO FILE TIMELY REPORTS OF EARNINGS AND OTHER EVENTS

Section 161(c) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsecs. (h)(2)(A) and (g) of this section] shall apply with respect to any deductions imposed on or after the date of the enactment of this Act [Jan. 2, 1968] under subsections (g) and (h) of section 203 of the Social Security Act [subsecs. (g) and (h) of this section] on account of failure to make a report required thereby."

COMPUTATION OF BENEFITS FOR CERTAIN CHILDREN

Section 163(b) of Pub. L. 90–248 provided that: "Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under section 202 or 223 of such Act [section 402 or 423 of this title] for January 1968 on the basis of the wages and self-employment income of an individual, and

"(2) one or more persons became entitled to monthly benefits before January 1968 under section 202(d) of such Act [section 402(d) of this title] by reason of section 216(h)(3) of such Act [section 416(h)(3) of this section] (but without regard to section 202(j)(1) [section 402(j)(1) of this title]), on the basis of such wages and self-employment income and are so entitled for January 1968, and

"(3) the total of benefits to which all persons are entitled under such section 202 or 223 of such Act [section 402 or 423 of this title] on the basis of such wages and self-employment for January 1968 are reduced by reason of section 203(a) of such Act [subsec. (a) of this section], as amended by this Act (or would, but for the penultimate sentence of such section 203(a) [subsec. (a) of this section], be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) above (but not including persons referred to in paragraph (2) above) is entitled for months after January 1968 shall be increased, after the application of such section 203(a) [subsec. (a) of this section], to the amount it would have been if the person or persons referred to in paragraph (2) were not entitled to a benefit referred to in such paragraph (2)."

PROHIBITION ON IMPOSITION OF DEDUCTION FOR FAILURE TO FILE CERTAIN REPORTS OF EVENTS

Section 209(b) of Pub. L. 86–778 provided that: "No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 13, 1960] under section 203(f) of the Social Security Act [subsec. (f) of this section], as in effect prior to such date, on account of failure to file a report of an event described in section 203(c) of such Act [subsec. (c) of this section], as in effect prior to such date; and no such deduction imposed prior to such date shall be collected after such date."

PROHIBITION ON PAYMENT OF BENEFITS TO CERTAIN SPOUSES OR CHILDREN

Section 211(t) of Pub. L. 86–778 provided that: "In any case where—

"(1) an individual has earnings (as defined in section 203(e)(4) of the Social Security Act [subsec. (e)(4) of this section] as in effect prior to the enactment of this Act [Sept. 13, 1960]) in a taxable year which begins before 1961 and ends in 1961 (but not on December 31, 1961), and

"(2) such individual's spouse or child entitled to monthly benefits on the basis of such individual's self-employment income has excess earnings (as defined in section 203(f)(3) of the Social Security Act as amended by this Act [subsec. (f)(3) of this section]) in a taxable year which begins after 1960, and

"(3) one or more months in the taxable year specified in paragraph (2) are included in the taxable year specified in paragraph (1),

then, if a deduction is imposed against the benefits payable to such individual with respect to a month described in paragraph (3), such spouse or child, as the case may be, shall not, for purposes of subsections (b) and (f) of section 203 of the Social Security Act as amended by this Act [subsecs. (b) and (f) of this section], be entitled to a payment for such month."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85–840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85–840, set out as a note under section 402 of this title.

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare, see note set out under section 416 of this title.

CROSS REFERENCES

Computation of primary insurance amount, see section 415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 408, 415, 424a of this title; title 20 section 880b–2; title 26 section 1402; title 30 section 922; title 45 sections 228c and 228e.

§ 404. Overpayments and underpayments.

(a) Whenever the Secretary finds that more or less than the correct amount of payment has been made to any person under this subchapter, proper adjustment or recovery shall be made, under regulations prescribed by the Secretary, as follows:

(1) With respect to payment to a person more than the correct amount, the Secretary shall decrease any payment under this subchapter to which such overpaid person is entitled, or shall require such overpaid person or his estate to refund the amount in excess of the correct amount, or shall decrease any payment under this subchapter payable to his estate or to any other person on the basis of the wages and self-employment income which were the basis of the payments to such overpaid person, or shall apply any combination of the foregoing. A payment made under this subchapter on the basis of an erroneous report of death by the Department of Defense of an individual in the line of duty while he is a member of the uniformed services (as defined in section 410(m) of this title) on active duty (as defined in section 410(*l*) of this title) shall not be considered an incorrect payment for any month prior to the month such Department notifies the Secretary that such individual is alive.

(2) With respect to payment to a person of less than the correct amount, the Secretary shall make payment of the balance of the amount due such underpaid person, or, if such person dies before payments are completed or before negotiating one or more checks representing correct payments, disposition of the amount due shall be made in accordance with subsection (d) of this section.

(b) In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if such adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to

any person where the adjustment or recovery of such amount is waived under subsection (b) of this section, or where adjustment under subsection (a) of this section is not completed prior to the death of all persons against whose benefits deductions are authorized.

(d) If an individual dies before any payment due him under this subchapter is completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—

(1) to the person, if any, who is determined by the Secretary to be the surviving spouse of the deceased individual and who either (i) was living in the same household with the deceased at the time of his death or (ii) was, for the month in which the deceased individual died, entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;

(2) if there is no person who meets the requirements of paragraph (1), or if the person who meets such requirements dies before the payment due him under this subchapter is completed, to the child or children, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(3) if there is no person who meets the requirements of paragraph (1) or (2), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent);

(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual;

(5) if there is no person who meets the requirements of paragraph (1), (2), (3), or (4), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person or persons, if any, determined by the Secretary to be the child or children of the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(6) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), or (5), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent); or

(7) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), or (6), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the legal representative of the estate of the deceased individual, if any.

(Aug. 14, 1935, ch. 531, title II, § 204, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title I, § 109(b)(1), 64 Stat. 523; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 111(a), 68 Stat. 1085; July 30, 1965, Pub. L. 89–97, title III, § 329, 79 Stat. 401; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 152, 153(a), 154(a), 81 Stat. 860, 861.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 152(a), incorporated in text preceding par. (1) part of existing provisions and broadened the Secretary's authority to include recovery of overpayments.

Subsec. (a)(1). Pub. L. 90–248, § 153(a), added last sentence which provided that payments made on an erroneous report by the Defense Department of the death, in the line of duty, of a member of the uniformed services on active duty are not to be deemed incorrect payments until the Department notifies the Secretary that he is alive.

Subsec. (a)(2). Pub. L. 90–248, § 152(a), incorporated in par. (2) part of existing provisions and broadened Secretary's authority to provide that in the case of underpayments, the Secretary is to pay the balance due the underpaid person but if he dies before receiving the full amount due him or before negotiating checks representing the correct payments, the balance due or the amount for which the checks were issued but not negotiated are to be paid under subsec. (d) of this section.

Subsec. (b). Pub. L. 90–248 § 152(b), authorized the Secretary to waive adjustment or recovery of overpayments from any person who is without fault, even where he is not the overpaid person and the latter is at fault, whereas heretofore a condition for waiver was that the overpaid person be without fault.

Subsec. (d). Pub. L. 90–248, § 154(a), deleted, in text preceding par. (1), provision excepting subsec. (d) from subsec. (a) and provision that the total amount due at the time of death may not exceed the amount of the monthly insurance benefit to which an individual was entitled for the month preceding the month in which he died, added clause (ii) in par. (1), added pars. (2)—(6), designated existing provisions as par. (7) and inserted therein references to pars. (1)—(6).

1965—Subsec. (d). Pub. L. 89–97 added subsec. (d).

1954—Subsec. (a). Act Sept. 1, 1954, added in the second sentence the words "and self-employment income" after "wages."

1939—Act Aug. 10, 1939, omitted former provisions relating to payments to aged individuals not qualified for benefits and substituted the present section relating to overpayments and underpayments.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 153(b) of Pub. L. 90–248 provided that: "The amendment made by this section [to subsec. (a)(1) of this section] shall apply with respect to benefits under title II of the Social Security Act [this subchapter] if the individual to whom such benefits were paid would have been entitled to such benefits in or after the month in which this Act was enacted [Jan. 1968] if the report mentioned in the amendment made by subsection (a) of this section had been correct (but without regard to the provisions of section 202(j)(1) of such Act [section 402(j)(1) of this title])."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Act Aug. 28, 1950, substituted "Administrator" for "Board".

Identical change was effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 405 of this title and in title 20 section 880b-2.

§ 405. Evidence, procedure, and certification for payments.

(a) Rules and regulations; procedures.

The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) Administrative determination of entitlement to benefits; findings of fact; hearings; investigations.

The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this subchapter. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) Wage records.

(1) For the purposes of this subsection—

(A) The term "year" means a calendar year when used with respect to wages and a taxable year (as defined in section 411(e) of this title) when used with respect to self-employment income.

(B) The term "time limitation" means a period of three years, three months, and fifteen days.

(C) The term "survivor" means an individual's spouse, surviving divorced wife, surviving divorced mother, child, or parent, who survives such individual.

(2) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(3) The Secretary's records shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages or self-employment income in his records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year—

(A) the Secretary's records (with changes, if any, made pursuant to paragraph (5) of this subsection) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this subchapter;

(B) The absence of an entry in the Secretary's records as to the wages alleged to have been paid by an employer to an individual during any period in such year shall be presumptive evidence for the purposes of this subchapter that no such alleged wages were paid to such individual in such period; and

(C) the absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this subchapter that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his

self-employment income for such year before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Secretary may change or delete any entry with respect to wages or self-employment income in his records of such year for such individual or include in his records of such year for such individual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this subchapter when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this subchapter;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform his records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939, under chapter 2 or 21 of Title 26, Internal Revenue Code of 1954, or under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 418 of this title or regulations of the Secretary thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Secretary's records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Secretary;

(H) to include wages paid during any period in such year to an individual by an employer if there is an absence of an entry in the Secretary's records of wages having been paid by such employer to such individual in such period;

(I) to enter items which constitute remuneration for employment under subsection (o) of this section, such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 228e (k) (3) of Title 45; or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Secretary as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F) of this subsection) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Secretary of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Secretary of the amount of such individual's wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of his records pursuant to this subsection, as the Secretary may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any individual or his survivor. If a hearing is held pursuant to this paragraph the Secretary shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or change or delete any entry, in his records as may be required by such findings and decision.

(8) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g) of this section.

(d) Issuance of subpenas in administrative proceedings.

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this subchapter, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or in the case of service by registered mail, or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) Judicial enforcement of subpenas; contempt.

In case of contumacy by, or refusal to obey a subpena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue on[1] order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

(f) Repealed. Pub. L. 91–452, title II, § 236, Oct. 15, 1970, 84 Stat. 930.

(g) Judicial review.

Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or its decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(h) Finality of Secretary's decision.

The findings and decisions of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under section 41 of Title 28 to recover on any claim arising under this subchapter.

(i) Certification for payment.

Upon final decision of the Secretary or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this subchapter, the Secretary shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Division of Disbursement of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Secretary: *Provided,* That where a review of the Secretary's decision is or may be sought under subsection (g) of this section the Secretary may withhold certification of payment pending such review. The Managing Trustee shall not be held

[1] So in original. Probably should read "an".

personally liable for any payment or payments made in accordance with a certification by the Secretary.

(j) Direct or indirect certification.

When it appears to the Secretary that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.

(k) Payments to incompetents.

Any payment made after December 31, 1939, under conditions set forth in subsection (j) of this section, any payment made before January 1, 1940, to, or on behalf of, a legally incompetent individual, and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Secretary of incompetency prior to certification of payment, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(*l*) Delegation of powers and duties by Secretary.

The Secretary is authorized to delegate to any member, officer, or employee of the Department of Health, Education, and Welfare designated by him any of the powers conferred upon him by this section, and is authorized to be represented by his own attorneys in any court in any case or proceeding arising under the provisions of subsection (e) of this section.

(m) Repealed. Aug. 28, 1950, ch. 809, title I, § 101 (b) (2), 64 Stat. 488.

(n) Joint payments.

The Secretary may, in his discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals for any month, and if one of such individuals dies before a check representing such joint payment is negotiated, payment of the amount of such unnegotiated check to the surviving individual or individuals may be authorized in accordance with regulations of the Secretary of the Treasury; except that appropriate adjustment or recovery shall be made under section 404(a) of this title with respect to so much of the amount of such check as exceeds the amount to which such surviving individual or individuals are entitled under this subchapter for such month.

(*o*) Crediting of compensation under the Railroad Retirement Act.

If there is no person who would be entitled, upon application therefor, to an annuity under section 228e of Title 45, or to a lump-sum payment under subsection (f) (1) of section 228e of Title 45 with respect to the death of an employee (as defined in sections 228 to 228c–1, 228e to 228s–1 of Title 45), then, notwithstanding section 410 (a) (10) of this title, compensation (as defined in sections 228 to 228c–1, 228e to 228s–1 of Title 45, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 228c–1 of Title 45 if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

(p) Special rules in case of federal service.

(1) With respect to service included as employment under section 410 of this title which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service to which the provisions of subsection (*l*) (1) of such section are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 410(*o*) of this title are applicable, the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of section 409 of this title, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 1420(e) of Title 26, Internal Revenue Code of 1939, and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Secretary, to make certification to him with respect to any matter determinable for the Secretary by such head or his agents under this subsection, which the Secretary finds necessary in administering this subchapter.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraphs (1) and (2) of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service

performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of the Treasury shall be deemed to be the head of such instrumentality.

(q) **Expedited benefit payments.**

(1) The Secretary shall establish and put into effect procedures under which expedited payment of monthly insurance benefits under this subchapter will, subject to paragraph (4) of this subsection, be made as set forth in paragraphs (2) and (3) of this subsection.

(2) In any case in which—

(A) an individual makes an allegation that a monthly benefit under this subchapter was due him in a particular month but was not paid to him, and

(B) such individual submits a written request for the payment of such benefit—

(i) in the case of an individual who received a regular monthly benefit in the month preceding the month with respect to which such allegation is made, not less than 30 days after the 15th day of the month with respect to which such allegation is made (and in the event that such request is submitted prior to the expiration of such 30-day period, it shall be deemed to have been submitted upon the expiration of such period), and

(ii) in any other case not less than 90 days after the later of (I) the date on which such benefit is alleged to have been due, or (II) the date on which such individual furnished the last information requested by the Secretary (and such written request will be deemed to be filed on the day on which it was filed, or the ninetieth day after the first day on which the Secretary has evidence that such allegation is true, whichever is later),

the Secretary shall, if he finds that benefits are due, certify such benefits for payment, and payment shall be made within 15 days immediately following the date on which the written request is deemed to have been filed.

(3) In any case in which the Secretary determines that there is evidence, although additional evidence might be required for a final decision, that an allegation described in paragraph (2)(A) is true, he may make a preliminary certification of such benefit for payment even though the 30-day or 90-day periods described in paragraph (2)(B)(i) and (B)(ii) have not elapsed.

(4) Any payment made pursuant to a certification under paragraph (3) of this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

(5) For purposes of this subsection, benefits payable under section 428 of this title shall be treated as monthly insurance benefits payable under this subchapter. However, this subsection shall not apply with respect to any benefit for which a check has been negotiated, or with respect to any benefit alleged to be due under either section 423 of this title, or section 402 of this title to a wife, husband, or child of an individual entitled to or applying for benefits under section 423 of this title, or to a child who has attained age 18 and is under a disability, or to a widow or widower on the basis of being under a disability. (Aug. 14, 1935, ch. 531, title II, § 205, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; June 25, 1948, ch. 646, § 32(b), as added May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1950, ch. 809, title I, §§ 101(b)(2), 108(a)-(c), 109(b), 64 Stat. 488, 518, 523; July 18, 1952, ch. 945, § 5(b), 66 Stat. 775; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 101(c)(3), 68 Stat. 1054; Aug. 1, 1956, ch. 836, title I, §§ 107(b), 111(a), 117, 70 Stat. 829, 831, 834; Aug. 1, 1956, ch. 837, title IV, § 402(b), 70 Stat. 871; June 11, 1960, Pub. L. 86-507, § 1(35), 74 Stat. 202; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 102(f)(2), 103(j)(2)(E), title VII, § 702(a), 74 Stat. 933, 938, 993; Sept. 21, 1961, Pub. L. 87-293, title II, § 202(b)(3), 75 Stat. 626; July 30, 1965, Pub. L. 89-97, title III, §§ 308(d)(9)(10), 330, 79 Stat. 379, 401, Jan. 2, 1968, Pub. L. 90-248, title I, § 171(a), 81 Stat. 876; Oct. 15, 1970, Pub. L. 91-452, title II, § 236, 84 Stat. 930.)

REFERENCES IN TEXT

The "Railroad Retirement Act", referred to in subsection (c)(5)(D) and in the catchline of subsection (o), is classified to sections 228a to 228c-1, 228e to 228h, 228i to 228p, and 228r to 228s-1 of Title 45, Railroads.

Title VIII of the Social Security Act, referred to in subsec. (c)(5)(F), was classified to section 1001 et seq. of this title, and has been omitted as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954.

Section 41 of Title 28, referred to in subsection (h), was repealed by act June 25, 1948, ch. 646, § 39, 63 Stat. 992, eff. Sept. 1, 1948. Jurisdictional provisions are now covered by sections 1331—1348, 1350—1357, 1359, 1397, 1399, 2361, 2401, and 2402 of Title 28, Judiciary and Judicial Procedure.

The Peace Corps Act, referred to in subsec. (p)(1), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

Section 1420 (e) of Title 26, Internal Revenue Code of 1939, referred to in subsec. (p)(1), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 3122 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any person compelled to testify or produce evidence after claiming his privilege against self-incrimination.

1968—Subsec. (q). Pub. L. 90-248, § 171(a), added subsec. (q).

1965—Subsec. (b). Pub. L. 89-97, § 308(d)(9), substituted in the second sentence "wife, divorced wife, widow, surviving divorced wife, surviving divorced mother," for "wife, widow, former wife divorced,".

Subsec. (c)(1)(C), Pub. L. 89-97, § 308(d)(10), substituted "surviving divorced wife, surviving divorced mother," for "former wife divorced,".

Subsec. (n). Pub. L. 89-97, § 330, provided that the Secretary of the Treasury may authorize the surviving payee or payees of a combined benefit check to cash one or more such checks which were not negotiated before

one of the payees died, provided that the part of the proceeds from each check that represents an overpayment is to be adjusted or recovered as provided in section 404(a) of this title.

1961—Subsec. (p)(1). Pub. L. 87-293 provided that the head of the Federal agency having control of the service or such agents as the head may designate would make the determinations with respect to employment and wages in the case of service performed by volunteers and volunteer leaders in the Peace Corps.

1960—Subsec. (c)(5)(F). Pub. L. 86-778, § 102(f)(2), authorized the Secretary to add, change or delete entries to conform his records to assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section, and inserted references to chapters 2 and 21 of the Internal Revenue Code of 1954.

Subsec. (d). Pub. L. 86-507 inserted "or by certified mail" following "registered mail" in two instances.

Subsec. (g). Pub. L. 86-778, § 702(a), inserted sentence providing that any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

Subsec. (p)(1). Pub. L. 86-778, § 103(j)(2)(E), substituted "subsection (*l*)(1)" for "subsection (m)(1)."

1956—Subsec. (b). Act Aug. 1, 1956, ch. 836, § 111 (a), required requests with respect to decisions to be filed within such period as the Secretary prescribes by regulation, which period may not be less than six months after notice of the decision is mailed.

Subsec. (c) (1) (B). Act Aug. 1, 1956, ch. 836, § 107 (b), substituted "three months" for "two months".

Subsec. (c) (5) (F). Act Aug. 1, 1956, ch. 836, § 117, eliminated provisions prohibiting inclusion in records of amount of self-employment income in excess of the amount which had been deleted as payments erroneously included in such records as wages paid to such individual in such taxable year, which provisions are now covered by subsec. (c) (5) (J) of this section.

Subsec. (c) (5) (J). Act Aug. 1, 1956, ch. 836, § 117, added subsec. (c) (5) (J).

Subsec. (p)(1). Act Aug. 1, 1956, ch. 837, provided for determinations with respect to service performed as a member of a uniformed service to which the provisions of section 410 (m) (1) of this title are applicable.

1954—Subsec. (p) (3). Act Sept. 1, 1954, added provisions making subsec. (p) (1) and (2) applicable to services performed by a civilian employee in the Coast Guard Exchanges or certain other activities at Coast Guard installations.

1952—Subsec. (*o*). Act July 18, 1952, substituted "subsection (a) or (e) of section 417 of this title" for "section 417 (a) of this title".

1950—Subsec. (b). Act Aug. 28, 1950, § 108 (a), inserted "former wife divorced, husband, widower," after "widow".

Subsec. (c). Act Aug. 28, 1950, § 108 (b), amended subsec. (c) generally to include definitions, to provide for the maintaining of records of self-employed persons, to allow for the revision of the Administrator's record, to authorize corrections after the times limitations if an application for monthly benefits or a lump-sum death payment is filed within the time limitation and no final decision has been made on it, to continue the requirement that written notice of any deletion or reduction of wages be given to the individual whose record is involved, to give the Administrator discretion to prescribe the period, after any change or refusal to change his records, within which an individual may be granted a hearing, and to provide for judicial review.

Subsec. (*l*). Act Aug. 28, 1950, § 109 (b) (2), amended subsec. (*l*) generally.

Subsecs. (*o*), (p). Act Aug. 28, 1950, § 108 (c), added subsecs. (*o*) and (p).

1939—Act Aug. 10, 1939, omitted former section 405, relating to payments of $500 or less to estates, and added subsecs. (a)—(n).

Change of Name

The District Court of the United States for the District of Columbia was changed to the United States District Court for the District of Columbia by act June 25, 1948, as amended by act May 24, 1949.

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

Effective Date of 1968 Amendment

Section 171(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) of this section [enacting subsec. (q) of this section] shall be effective with respect to written requests filed under section 205(q) of the Social Security Act [subsec. (q) of this section] after June 30, 1968."

Effective Date of 1965 Amendment

Amendment of subsecs. (b) and (c)(1)(C) of this section by Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89-97, set out as a note under section 402 of this title.

Effective Date of 1961 Amendment

Amendment of this section by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1960 Amendments

Amendment of subsec. (c)(5)(F) of this section by Pub. L. 86-778 effective on the first day of the second calendar year following 1960, see section 102(f)(3) of Pub. L. 86-778, set out as a note under section 418 of this title.

Section 702(b) of Pub. L. 86-778 provided that: "The amendment made by subsection (a) [to subsec. (g) of this section] shall apply to actions which are pending in court on the date of the enactment of this Act or are commenced after such date."

Amendment of subsec. (p)(1) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Effective Date of 1956 Amendments

Section 111 (b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [to subsec. (b) of this section] shall be effective upon enactment [August 1, 1956]; except that the period of time prescribed by the Secretary pursuant to the third sentence of section 205 (b) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b) of this section], with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act [August 1, 1956] may not terminate for such individual less than six months after the date of enactment of this Act [August 1, 1956]."

Amendment of subsec. (p) (1) by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

Effective Date of 1954 Amendment

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendment to subsec. (p) (3) made by section 101 (c) (3) of act Sept. 1, 1954, shall become effective January 1, 1955.

Effective Date of 1950 Amendment

Section 108 (d) of act Aug. 28, 1950, provided that: "The amendments made by subsections (a) and (c) of this section [amending subsecs. (b), (*o*) of this section] shall take effect on September 1, 1950. The amendment made by subsection (b) of this section [amending subsec. (c) of this section] shall take effect January 1, 1951,

except that, effective on September 1, 1950, the husband or former wife divorced of an individual shall be treated the same as a parent of such individual, and the legal representative of an individual or his estate shall be treated the same as the individual, for purposes of section 205 (c) of the Social Security Act [subsec. (c) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950]."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(3) of Pub. L. 87–293 repealed by Pub. L. 89–572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulation, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89–572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

Subsec. (m), relating to filing of application for benefits under this subchapter, repealed by act Aug. 28, 1950, § 101 (b) (2), to be effective with respect to monthly payments under section 402 of this title for the months after August 1950.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Act Aug. 28, 1950, § 109 (b) (1), substituted "Administrator" for "Board", "Administrator's" for "Board's", "he", "him", and "his", for "it" and "its" wherever appearing.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

INCLUSION OF SELF-EMPLOYMENT INCOME IN RECORDS OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 331(c) of Pub. L. 89–97 provided that: "Notwithstanding any provision of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], the Secretary of Health, Education, and Welfare may conform, before April 16, 1970, his records to tax returns or statements of earnings which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e)(5) of such Code [section 1402(e)(5) of Title 26]."

Section 101(e) of Pub. L. 86–778 provided that: "The provisions of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], insofar as they prohibit inclusion in the records of the Secretary of Health, Education, and Welfare of self-employment income for a taxable year when the return or statment including such income is filed after the time limitation following such taxable year, shall not be applicable to earnings which are derived in any taxable year ending before 1960 and which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e) (3)(B) or (5) of the Internal Revenue Code of 1954 [section 1402(e) (3)(B) or (5) of Title 26]."

DEFINITION OF "SECRETARY"

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare. See section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

CROSS REFERENCES

Criminal contempt, see sections 401, 402, 3285, 3691, 3771, and 3772 of Title 18, Crimes and Criminal Procedure.

Final disability decisions of Secretary, review of, see section 421(d) of this title.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Jurisdiction of court of appeals, see section 1291 of Title 28, Judiciary and Judicial Procedure.

Per diem and mileage of witnesses generally, see section 1821 of Title 28.

Venue generally, see section 1391 et seq. of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 415, 418, 421, 424a, 602, 1306, 1395ff, 1395ii, 8503 of this title; title 5 section 8503; title 20 section 880b–2; title 26 section 1402.

§ 406. Representation of claimants before the Secretary.

(a) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Secretary, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this subchapter, and any agreement in violation of such rules and regulations shall be void. Whenever the Secretary, in any claim before him for benefits under this subchapter, makes a determination favorable to the claimant, he shall, if the claimant was represented by an attorney in connection with such claim, fix (in accordance with the regulations prescribed pursuant to the preceding sentence) a reasonable fee to compensate such attorney for the services performed by him in connection with such claim. If as a result of such determination, such claimant is entitled to past-due benefits under this subchapter, the Secretary shall, notwithstanding section 405(i) of this title, certify for payment (out of such past-due benefits) to such attorney an amount equal to whichever of the following is the smaller: (A) 25 per centum of the total amount of such past-due benefits, (B) the amount of the attorney's fee so fixed, or (C) the amount

agreed upon between the claimant and such attorney as the fee for such attorney's services. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this subchapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement, directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

(b)(1) Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment, and the Secretary may, notwithstanding the provisions of section 405(i) of this title, certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits. In case of any such judgment, no other fee may be payable or certified for payment for such representation except as provided in this paragraph.

(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings before a court to which paragraph (1) of this subsection is applicable any amount in excess of that allowed by the court thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than one year, or both. (Aug. 14, 1935, ch. 531, title II, § 206, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title I, § 109 (b) (1), 64 Stat. 523; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 28, 1958, Pub. L. 85-840, title III, § 309, 72 Stat. 1034; July 30, 1965, Pub. L. 89-97, title III, § 332, 79 Stat. 403; Jan. 2, 1968, Pub. L. 90-248, title I, § 173, 81 Stat. 877.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248 provided for fixing of attorneys fees for claimants and for certification of amount for payment out of past-due benefits.

1965—Pub. L. 89-97 designated existing provisions as subsec. (a) and added subsec. (b).

1958—Pub. L. 85-840 eliminated provisions which required attorneys to file a certificate of their right to practice.

1939—Act Aug. 10, 1939, substituted the provisions of this section for former provisions relating to overpayments during life, now covered by section 404 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Act Aug. 28, 1950, substituted "Administrator" for "Board" and "Administrator's" for "Board's".

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395ii of this title and in title 20 section 880b-2.

§ 407. Assignment.

The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. (Aug. 14, 1935, ch. 531, title II, § 207, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362.)

AMENDMENTS

1939—Act Aug. 10, 1939, amended section generally by incorporating provisions of former section 408 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see Rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

Seizure of person or property, see Rule 64.

CROSS REFERENCES

Assignment of claims void, see section 203 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 880b-2.

§ 408. Penalties.

Whoever—

(a) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(1) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(2) whether net earnings from self-employment (as such term is defined in this subchapter and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(3) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under sec-

tion 403 (f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(b) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(c) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(d) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(e) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person;

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (Aug. 14, 1935, ch. 531, title II, § 208, 49 Stat. 625; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title I, § 109 (c), 64 Stat. 523; Sept. 1, 1954, ch. 1206, title I, § 111 (b), 68 Stat. 1085; Aug. 28, 1958, Pub. L. 85-840, title III, § 310, 72 Stat. 1034; Sept. 13, 1960, Pub. L. 86-778, title II, § 211(m), 7 Stat. 958.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778 substituted "section 403(f) of this title" for "section 403(e) of this title" in cl. (3).

1958—Pub. L. 85-840 amended section generally, by, among other changes, inserting references to the Internal Revenue Code of 1954, and making penalty provisions applicable to cases (1) where false statements or representations as to whether wages were paid or received for employment, or whether net earnings from self-employment were derived, or whether a person entitled to benefits under this subchapter had earnings in or for a particular period, or as to the amount thereof, are made for the purpose of obtaining or increasing benefits; (2) where false statements or representations are made in any application for disability determination; (3) where a person intentionally conceals or fails to disclose knowledge of any event affecting his or another's initial or continued right to payment, and (4) where a person converts a payment that he received for the use and benefit of another.

1954—Act Sept. 1, 1954, made it clear that the penalty provisions of the section extend to cases of false statements or representations as to the amount of net earnings from self-employment derived or the period during which derived.

1950—Act Aug. 28, 1950, substituted "subchapter E of chapter 1 or subchapter A or E of chapter 9 of Title 26" for "the Federal Insurance Contributions Act".

1939—Act Aug. 10, 1939, amended section generally by incorporating provisions of former section 409 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (a)(3) of this section by Pub. L. 86-778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86-778, see note under section 403 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395ii of this title and in title 20 section 880b-2.

§ 409. Definition of wages.

For the purposes of this subchapter, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this subchapter under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) (1) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

(2) That part of remuneration, which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,200 with respect to employment has been paid to an individual during any calendar year after 1954 and prior to 1959, is paid to such individual during such calendar year;

(3) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,800 with respect to employment has been paid to an individual during any calendar year after 1958 and prior to 1966, is paid to such individual during such calendar year;

(4) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $6,600 with respect to employment has been paid to an individual during any calendar year after 1965 and prior to 1968, is paid to such individual during such calendar year;

(5) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $7,800 with respect to employment has been paid to an individual during any calendar year after 1967, is paid to such individual during such calendar year:

(b) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (1) retirement, or (2) sickness or accident disability, or (3) medical or hospitalization expenses in connection with sickness or accident disability, or (4) death;

(c) Any payment made to an employee (including any amount paid by an employer for insurance or

annuities, or into a fund, to provide for any such payment) on account of retirement;

(d) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501(a) of the Internal Revenue Code of 1954, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a), (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a), (3), (4), (5), and (6) of the Internal Revenue Code of 1954, or (3) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1954, or (4) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1954;

(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of 1939, or (2) of any payment required from an employee under a State unemployment compensation law;

(g) (1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 410 (f) (5) of this title;

(3) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 410 (f) (5) of this title;

(h) (1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62 (if a woman) or age 65 (if a man), if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 418 (b) (2) of this title) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 410 (j) (3) (C) of this title (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less an $50;

(k) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of Title 26, Internal Revenue Code of 1954;

(*l*) (1) Tips paid in any medium other than cash;

(2) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more; or

(m) Any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(1) upon or after the termination of an employee's employment relationship because of (A) death, (B) retirement for disability, or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer, and

(2) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated.

For purposes of this subchapter, in the case of domestic service described in subsection (g) (2) of this section, any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g) (2) of this section.

For purposes of this subchapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410 (*l*) (1) of this title are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 1101 (10) of Title 38.

For purposes of this subchapter, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 410(*o*) of this title are applicable, (1) the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 2504(c) or 2505(1) of Title 22, and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed.

For purposes of this subchapter, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of Title 26, Internal Revenue Code of 1954, or (if no statement including such tips is so furnished) at the time received. (Aug. 14, 1935, ch. 531, title II, § 209, 49 Stat. 625; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Mar. 24, 1943, ch. 26, § 1(b)(2), 57 Stat. 47; Apr. 4, 1944, ch. 161, § 2, 58 Stat. 188; Oct. 23, 1945, ch. 433, § 7(b), 59 Stat. 548; Dec. 29, 1945, ch. 652, title I, § 5(a), 59 Stat. 671; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, §§ 407(a), 408(a), 409(a), 410, 411, 414, 60 Stat. 988, 989, 990; Apr. 20, 1948, ch. 222, § 1(a), 62 Stat. 195; Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492; Sept. 1, 1954, ch. 1206, title I, §§ 101(a) (1)-(3), 104(a), 68 Stat. 1052, 1078; Aug. 1, 1956, ch. 836, title I, § 105(a), 70 Stat. 828; Aug. 1, 1956, ch. 837, title IV, § 401, 70 Stat. 869; Aug. 27, 1958, Pub. L. 85-786, § 1, 72 Stat. 938; Aug. 28. 1958, Pub. L. 85-840, title I, § 102(a), 72 Stat. 1019; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j) (2)(C), (F), 74 Stat. 937; June 30, 1961, Pub. L. 87-64, title I. § 102(c)(3)(A), 75 Stat. 134; Sept. 22, 1961, Pub. L. 87-293, title II, § 202(b)(2), 75 Stat. 626; Feb. 26, 1964, Pub. L. 88-272, title II, § 220(c) (3), 78 Stat. 63; Oct. 13, 1964, Pub. L. 88-650, § 4(a), 78 Stat. 1077; July 30, 1965, Pub. L. 89-97, title III, §§ 313(a), 320(a)(1), 79 Stat. 382, 393; Jan. 2, 1968, Pub. L. 90-248, title I, § 108(a)(1), title V, § 504(c), 81 Stat. 834, 935.)

REFERENCES IN TEXT

Sections 165 (a) and 165 (a) (3)-(6) of the Internal Revenue Code of 1939, referred to in subsec. (e), were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 401 and 501 (a), respectively, of said Title 26.

Section 1400 of the Internal Revenue Code of 1939, referred to in subsec. (f), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 3101 of said Title 26.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Section 1101(10) of Title 38, referred to in the text, was repealed in the general revision of Title 38 by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106, and is now covered by sections 401 and 403 of Title 38, Veterans' Benefits.

The Peace Corps Act, referred to in the concluding paragraph, is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Subsec. (a)(4), (5). Pub. L. 90-248, § 108(a)(1) (A), (B) inserted "and prior to 1968" after "1965" and added par. (5), respectively.

Subsec. (m). Pub. L. 90-248, § 504(c), added subsec. (m).

1965—Subsec. (a)(3). Pub. L. 89-97, § 320(a)(1)(A), inserted "and prior to 1966" after "1958".

Subsec. (a)(4). Pub. L. 89-97, § 320(a)(1)(B), added par. (4).

Subsec. (*l*). Pub. L 89-97, § 313(a)(1), added subsec. (*l*).

Pub. L. 89-97, § 313(a)(2), added paragraph at the end providing that tips be considered remuneration and that such remuneration be deemed paid as of the filing of a written statement or as of the time received.

1964—Subsec. (e). Pub. L. 88-272 included as "wages" payments after 1954 under or to trust exempt under sections 401 and 501(a), I.R.C. 1954, under annuity plans after 1954 and prior to 1963, under section 401(a) (3), (4), (5), and (6), I.R.C. 1954, under or to annuity plans which at time of payment after 1962, are described in section 403(a), I.R.C. 1954, and under or to a bond purchase plan which at time of any payment after 1962, is a qualified bond purchase plan described in section 405(a), I.R.C. 1954.

Subsec. (k). Pub. L. 88-650 added subsec. (k).

1961—Subsec. (i). Pub. L. 87-64 substituted "attains age 62 (if a woman) or age 65 (if a man)" for "attains retirement age (as defined in section 416(a) of this title)."

Pub. L. 87-293 added last paragraph providing for computation of wages for Peace Corps volunteer service.

1960—Subsec. (j). Pub. L. 86-778, § 103(j)(2)(F), substituted "section 410(j)(3)(C)" for "section 410 (k)(3)(C)."

Pub. L. 86-778, § 103(j)(2)(C), substituted "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title" in the next to last paragraph.

1958—Subsec. (a). Pub. L. 85-840 inserted "and prior to 1959" following "any calendar year after 1954" incl. (2), and added cl. (3).

Subsec. (i). Pub. L. 85-786 inserted sentence to include remuneration for service in State employment paid to employee for period he was absent for illness in the term "sick pay".

1956—Subsec. (h) (2). Act Aug. 1, 1956, ch. 836, included within the definition of wages cash remuneration of $150 or more, and cash remuneration computed on a time basis where the employee performs agricultural labor for the employer on 20 days or more during the calendar year.

Act Aug. 1, 1956, ch. 837, added next to last par. to define "wages" in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410 (m) (1) of this title are applicable.

1954—Subsec. (a). Act Sept. 1, 1954, § 104 (a), provided that for years after 1954 the term "wages" would exclude any remuneration in excess of $4,200 paid to an individual with respect to employment during a calendar year.

Subsec. (g) (2). Act Sept. 1, 1954, § 101 (a) (1), made coverage of domestic service depend solely on receipt by the employee, in a quarter, of $50 in cash remuneration from one employer for such service.

Subsec. (g) (3). Act Sept. 1, 1954, § 101 (a) (2), added subsec. (g) (3).

Subsec. (h). Act Sept. 1, 1954, § 101 (a) (3), redesignated subsection as cl. (1) and added cl. (2).

1950—Act Aug. 28, 1950, substituted new section 409 for former section 409.

1948—Subsec. (b)(15). Act Apr. 20, 1948, inserted subpar. (B).

1946—Subsec. (a). Act Aug. 10, 1946, § 414, in amending former subsec. (a), made pars. (1) and (2) applicable only to payments before Jan. 1, 1947, added a new par.

(3), applicable to payments after that date, and renumbered former pars. (3)-(6) to be pars. (4)-(7), respectively.

Subsec. (h). Act Aug. 10, 1946, § 407(a), in amending former subsec. (h), required a currently insured individual to have not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve preceding quarters.

Subsec. (i). Act Aug. 10, 1946, § 408(a), in amending former subsec. (i), required only that a wife be married to the insured individual for 36 months instead of requiring that they be married before Jan. 1, 1939, or before he became 60 years of age, as was formerly the case.

Subsec. (k). Act Aug. 10, 1946, § 409(a), in amending former subsec. (k), changed requirement that a stepchild or adopted child must have been such before the individual reached age 60 to require, in the case of a living individual, that the child must have been a stepchild or adopted child for 36 months.

Subsec. (q). Act Aug. 10, 1946, § 410, added former subsec. (q).

Subsec. (r). Act Aug. 10, 1946, § 411, added former subsec. (r).

1945—Subsec. (b)(16). Act. Dec. 29, 1945, added former subsec. (b)(16).

Subsec. (p). Act Oct. 23, 1945, added former subsec. (p).

1944—Subsec. (o) (1). Act Apr. 4, 1944, § 2, in amending subsec. (o)(1), inserted ", but shall not * * * War Shipping Administration" at end of subd. (1).

1943—Subsec. (o). Act Mar. 24, 1943, added former subsec. (o).

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 108(c) of Pub. L. 90-248 provided that: "The amendment made by subsections (a)(1) [to subsecs. (a)(4), (5) of this section] and (a)(3)(A) [to section 423(a)(2)(ii) of this title], and the amendments made by subsection (b) (except paragraph (1) thereof) [to sections 1402(b)(1)(E), 3121(a)(1), 3122, 3125 and 6413 (c)(1), (2)(A) of Title 26], shall apply only with respect to remuneration paid after December 1967. The amendments made by subsections (a)(2) [to section 411(b)(1) (D), (E) of this title], (a)(3)(B) [to section 413(a) (2)(iii) of this title], and (b)(1) [to section 1402(b)(1) (D) of Title 26] shall apply only with respect to taxable years ending after 1967. The amendment made by subsection (a)(4) [to section 415(e)(1) of this title] shall apply only with respect to calendar years after 1967."

Subsec. (m) of this section applicable with respect to remuneration paid after Jan. 2, 1968, see section 504(d) of Pub. L. 90-248, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by section 313 of Pub. L. 89-97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89-97, set out as a note under section 6053 of Title 26.

Amendment of section by section 320 of Pub. L. 89-97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 3121 of Title 26.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment of subsec. (e) by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1962, see section 220(d) of Pub. L. 88-272, set out as a note under section 406 of Title 26, Internal Revenue Code.

Subsec. (k) of this section applicable with respect to remuneration paid on or after the first day of the first calendar month which begins more than ten days after Oct. 13, 1964, see section 4(c) of Pub. L. 88-650, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1961 AMENDMENTS

Amendment of subsec. (i) of this section by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Amendment of this section by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (j) and the last paragraph of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-786 provided that: "The amendment made by section 1 [amending subsec. (i) of this section] shall be applicable to remuneration paid after the enactment of this Act [August 27, 1958], except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act [section 418 of this title], the amendment made by section 1 [amending subsec. (i) of this section] shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218 (e) [section 418 (e) of this title] would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 [amending subsec. (i) of this section] been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218 (e) [section 418 (e) of this title]."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

Section 105 (d) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) of this section [to subsec. (h) (2) of this section] shall apply with respect to remuneration paid after 1956, and the amendment made by subsection (b) of this section [to section 410 (o) of this title] shall apply with respect to service performed after 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (g) (2), (3), and (h) (1), (2) by section 101 (a) (1), (2), (3), of act Sept. 1, 1954 shall be applicable only with respect to remuneration paid after 1954.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 104 (b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) shall take effect January 1, 1951, except that sections 214, 215, and 216 of the Social Security Act [sections 414-416 of this title] shall be applicable (1) in the case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950."

EFFECTIVE DATE OF 1948 AMENDMENT

Section 1 (b) of act Apr. 20, 1948, provided in part that: "The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act [former subsection (b) (15) of this section] shall be applicable with respect to services performed after the date of the enactment of this Act [Apr. 20, 1948].

EFFECTIVE DATE OF 1946 AMENDMENT

Amendments to former subsecs. (h), (i) and (k) of this section by sections 407 (a), 408 (a) and 409 (a) of act Aug. 10, 1946, were made applicable only in cases of applications for benefits under sections 401-410 of this title filed after December 31, 1946, by sections 407 (b), 408 (b) and 409 (b) of act Aug. 10, 1946.

EFFECTIVE DATE OF 1945 AMENDMENT

Amendment of former subsec. (b) of this section by act Dec. 29, 1945, § 5 (a), was made effective Jan. 1, 1946, by section 5 (a) thereof.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of former subsecs. (a)-(n) of this section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of such act.

REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(2) of Pub. L. 87-293 repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

TRANSFER OF FUNCTIONS

"Administrator" was substituted for "Board" and "Federal Security Administrator" for "Social Security Board" and for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

SERVICES FOR COOPERATIVES PRIOR TO 1951

Section 110 of act Aug. 28, 1950, provided that:

"In any case in which—

"(1) an individual has been employed at any time prior to 1951 by organizations enumerated in the first sentence of section 101 (12) of the Internal Revenue Code [1939].

"(2) the service performed by such individual during the time he was so employed constituted agricultural labor as defined in section 209 (*l*) of the Social Security Act [former subsec. (*l*) of this section] and section 1426 (h) of the Internal Revenue Code [1939], as in effect prior to the enactment of this act [Aug. 28, 1950], and such service would, but for the provisions of such sections, have constituted employment for the purposes of title II of the Social Security Act [this subchapter] and subchapter A of chapter 9 of such Code [1939].

"(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code [1939] have been paid with respect to any part of the remuneration paid to such individual by such organization for such service and the payment of such taxes by such organization has been made in good faith upon the assumption that such service did not constitute agricultural labor as so defined, and

"(4) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall be deemed to constitute remuneration for employment as defined in section 209 (b) of the Social Security Act [former subsec. (b) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] (but it shall not constitute wages for purposes of deductions under section 203 of such Act [section 403 of this title] for months for which benefits under title II of such Act [this subchapter] have been certified and paid prior to the enactment of this act [Aug. 28, 1950])."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, provided that: "If any amount paid prior to the date of the enactment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [to this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

CROSS REFERENCES

Correlation of payments under Railroad Retirement Act and crediting railroad industry service under this subchapter in certain cases, see section 228e of Title 45, Railroads.

Definitions under Internal Revenue Code, see section 7701 of Title 26, Internal Revenue Code, 1954.

Taxes on services rendered by employees of international organizations prior to Jan. 1, 1945, see note set out under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 415, 417, 418, 424a, 607 of this title; title 5 section 5901; title 20 section 680b-2; title 22 sections 288, 288e, 288f; title 45 section 228e.

§ 410. Definitions relating to employment.

For the purposes of this subchapter—

(a) Employment.

The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign subsidiary (as defined in section 3121(*l*) of Title 26, Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of Title 26, Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(*l*) of Title 26, Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with sections 1461 to 1468 of Title 7, or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) (A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or

has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 of Title 26, Internal Revenue Code of 1939, by virtue of any provision of law which specifically refers to such section in granting such exemption;

(6) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of Title 26, Internal Revenue Code of 1939, on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 5351(2) of Title 5, other than as a medical or dental intern or a medical or dental resident in training;

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) by any individual to whom subchapter III of chapter 83 of Title 5 does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);

(7) Service performed in the employee of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

(A) service included under an agreement under section 418 of this title,

(B) service which, under subsection (k) of this section, constitutes covered transportation service, or

(C) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this subchapter—

(i) any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an officer or employee of the United States or any agency or instrumentality thereof, and

(ii) the remuneration for service described in clause (i) (including fees paid to a public

official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate;

(D) service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States; except that the provisions of this subparagraph shall not be applicable to service performed—

(i) in a hospital or penal institution by a patient or inmate thereof;

(ii) by any individual as an employee included under section 5351(2) of Title 5, other than as a medical or dental intern or as a medical or dental resident in training;

(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency; or

(iv) by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or other fee basis;

(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) of Title 26, Internal Revenue Code of 1954, which is exempt from income tax under section 501 (a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121 (k) of Title 26, Internal Revenue Code of 1954, is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed by such organization under such section 3121 (k),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed, or

(iii) who, after the calendar quarter in which the certificate was filed with respect to a group described in paragraph (1) (E) of such section 3121 (k), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1) (E) with respect to which no certificate is in effect;

(9) Service performed by an individual as an employee or employee representative as defined in section 1532 of Title 26, Internal Revenue Code of 1939;

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of Title 26, Internal Revenue Code of 1939, if the remuneration for such service is less than $50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school charted or approved pursuant to State law.

(14) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act;

(16) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

(18) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 1101(a)(15)(H)(ii) of Title 8; or

(19) Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 1101(a)(15) of Title 8, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.

(b) Included and excluded service.

If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (a) of this section.

(c) American vessel.

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(d) American aircraft.

The term "American aircraft" means an aircraft registered under the laws of the United States.

(e) American employer.

The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing, (3) an individual who is a resident of the United States, (4) a partnership, if two-thirds or more of the partners are residents of the United States, (5) a trust, if all of the trustees are residents of the United States, or (6) a corporation organized under the laws of the United States or of any State.

(f) Agricultural labor.

The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j (g) of Title 12, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A) of this paragraph, but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

The provisions of subparagraphs (A) and (B) of paragraph (4) of this subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(g) Farm.

The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, planta-

tions, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(h) State.

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(i) United States.

The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(j) Employee.

The term "employee" means—

(1) any officer of a corporation; or

(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

(k) Covered transportation service.

(1) Except as provided in paragraph (2) of this subsection, all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951;

except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C) of this paragraph.

(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) For the purposes of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a

State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this subchapter, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.

(*l*) Service in the uniformed services.

(1) Except as provided in paragraph (4) of this subsection, the term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) The term "active duty" means "active duty" as described in section 1101 of Title 38, except that it shall also include "active duty for training" as described in such section.

(3) The term "inactive duty training" means "inactive duty training" as described in such section 1101 of Title 38.

(4) (A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 228c–1 of Title 45. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare, as provided in section 228c–1 (p) (2) of Title 45, with respect to all such service which is so creditable.

(B) In any case where benefits under this subchapter are already payable on the basis of such individual's wages and self-employment income at the time such notification (with respect to such individual) is received by the Secretary, the Secretary shall certify no further benefits for payment under this subchapter on the basis of such individual's wages and self-employment income, or shall recompute the amount of any further benefits payable on the basis of such wages and self-employment income, as may be required as a consequence of subparagraph (A) of this paragraph. No payment of a benefit to any person on the basis of such individual's wages and self-employment income, certified by the Secretary prior to the end of the month in which he receives such notification from the Railroad Retirement Board, shall be deemed by reason of this subparagraph to have been an erroneous payment or a payment to which such person was not entitled. The Secretary shall, as soon as possible after the receipt of such notification from the Railroad Retirement Board, advise such Board whether or not any such benefit will be reduced or terminated by reason of subparagraph (A) of this paragraph, and if any such benefit will be so reduced or terminated, specify the first month with respect to which such reduction or termination will be effective.

(m) Member of a uniformed service.

The term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 1101 (3) of Title 38), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) a retired member of any of those services;

(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;

(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) any person while enroute to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty; or

(B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

(n) Crew leader.

The term "crew leader" means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. A crew leader shall, with respect to services performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

(*o*) Peace Corps volunteer service.

The term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act. (Aug. 14, 1935, ch. 531, title II, § 210, as added Aug. 10, 1946, ch. 951, title II, § 201, 60 Stat. 979, and amended, Aug. 28, 1950, ch. 809, title I, § 104 (a), 64 Stat. 492; Oct. 31, 1949, ch. 792, title V, § 506(a), formerly § 505(a), as added July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87–345, § 3, 75 Stat. 761; Sept. 1,

1954, ch. 1206, title I, § 101(a)(4), (5), (b), (c) (1), (2), (e), (f), (m), 68 Stat. 1052, 1061; Aug. 1, 1956, ch. 836, title I, §§ 104(a), (b), (c) (1), 105 (b), 121 (c), 70 Stat. 824, 828, 839; Aug. 1, 1956, ch. 837, title IV, § 402 (a), 70 Stat. 870; Aug. 28, 1958, Pub. L. 85-840, title III, § 311(a), 312(a), 72 Stat. 1035; June 25, 1959, Pub. L. 86-70, § 32(c)(2), 73 Stat. 149; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), title II, § 202 (a), 73 Stat. 387, 389; July 12, 1960, Pub. L. 86-624, § 30(c)(2), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 103 (c)-(f), (j)(2) (A), (B), 104(a), 74 Stat. 936, 937, 942; Sept. 21, 1961, Pub. L. 87-256, § 110(e)(2), 75 Stat. 537; Sept. 22, 1961, Pub. L. 87-293, title II, § 202(b)(1), 75 Stat. 626; July 30, 1965, Pub. L. 89-97, title III, §§ 311(a)(3), (4), 317(a), 79 Stat. 380, 381, 388; Jan. 2, 1968, Pub. L. 90-248, title I, § 123(a), title IV, § 403(a), 81 Stat. 844, 931.)

REFERENCES IN TEXT

Section 1410 of Title 26, Internal Revenue Code of 1939, referred to in subsecs. (a)(5) and (a)(6)(B), was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by section 3111 of said Title 26.

Section 1532 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a)(9), was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by sections 3231 and 7701(a)(1)—(9) of said Title 26.

Section 101 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a)(10)(A), was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by sections 501, 502, and 521 of said Title 26.

For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1954, see section 7852(b) of said Title 26.

The International Organizations Immunities Act, referred to in subsection (a)(15), is classified to sections 288—288f of Title 22, Foreign Relations and Intercourse.

The Internal Security Act of 1950, as amended, referred to in subsec. (a)(17), is classified to chapter 23 of Title 50, War and National Defense.

Section 1101 of Title 38, referred to in subsecs. (*l*)(2) and (*l*)(3), was repealed in the general revision of Title 38 by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106, and is now covered by sections 101, 106 (b), (c), 401, 402, 403, 404 and 421 of Title 38, Veterans' Benefits.

Section 1101(3) of Title 38, referred to in subsec. (m), was repealed in the general revision of Title 38 by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106, and is now covered by section 101(27) of Title 38, Veterans' Benefits.

The Universal Military Training and Service Act, referred to in subsec. (m)(5)(B), is classified to section 451, et seq. of Appendix to Title 50, War and National Defense.

The Peace Corps Act, referred to in subsec. (*o*), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Subsec. (a)(3)(B). Pub. L. 90-248, § 123(a), added the exception provision including clauses (i)-(iii).

Subsec. (a)(6)(C)(iv). Pub. L. 90-248, § 403(a)(1), substituted reference to section 5351(2) for former section 1052 of Title 5.

Subsec. (a)(6)(C)(vi). Pub. L. 90-248, § 403(a)(2), substituted "subchapter III of chapter 83 of Title 5" for "the Civil Service Retirement Act".

Subsec. (a)(7)(D)(ii). Pub. L. 90-248, § 403(a)(3), substituted reference to section 5351(2) for former section 1052 of Title 5.

1965—Subsec. (a)(6)(C)(iv). Pub. L. 89-97, § 311(a)(3), inserted ", other than as a medical or dental intern or a medical or dental resident in training".

Subsec. (a)(7)(D). Pub. L. 89-97, § 317(a)(3), added subpar. (D).

Subsec. (a)(13). Pub. L. 89-97, § 311(a)(4), struck out from the definition of employment the exclusion of service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law.

1961—Subsec. (a)(19). Pub. L. 87-256 added subsec. (a)(19).

Subsec. (*o*). Pub. L. 87-293 added subsec. (*o*).

1960—Subsec. (a)(3). Pub. L. 86-778, § 104(a), designated existing provisions as cl. (A) and eliminated therein provisions which related to service performed by an individual in the employ of his son or daughter, and added cl. (B).

Subsec. (a)(7). Pub. L. 86-778, § 103(c), excluded service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof.

Subsec. (a)(18). Pub. L. 86-778, § 103(d), added subsec. (a)(18).

Subsec. (h). Pub. L. 86-778, § 103(e), included Guam and American Samoa.

Pub. L. 86-624 substituted "includes the District of Columbia and" for "includes Hawaii, the District of Columbia, and".

Subsec. (i). Pub. L. 86-778, § 103(f), included Guam and American Samoa.

Pub. L. 86-624 eliminated "Hawaii," preceding "the District of Columbia."

Subsec. (j). Pub. L. 86-778, § 103(j)(2) (A), (B), redesignated former subsec. (k) as (j) and repealed former subsec. (j) which related to citizens of Puerto Rico.

Subsecs. (k)—(n). Pub. L. 86-778, § 103(j)(2)(B), redesignated former subsecs. (*l*)—(*o*) as (k)—(n).

1959—Subsec. (a)(6)(B)(ii). Pub. L. 86-168 substituted "Federal land bank association" for "national farm loan association", and included service in the employ of Federal land banks, Federal intermediate credit banks and banks for cooperatives.

Subsec. (h). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii."

Subsec. (i). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii."

1958—Subsec. (a)(1). Pub. L. 85-840, § 311(a), eliminated provisions which excluded from coverage service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j (g) of Title 12.

Subsec. (a)(8)(B). Pub. L. 85-840, § 312 (a), substituted references to the Internal Revenue Code of 1954 for references to the Internal Revenue Code of 1939, and inserted provisions making subparagraph inapplicable to service performed during the period for which a certificate is in effect if such service is performed by an employee who, after the calendar quarter in which the certificate was filed with respect to a group described in section 3121 (k)(1)(E) of Title 26, became a member of such group, and making subparagraph applicable with respect to service performed by an employee as a member of a group described in section 3121(k)(1)(E) of Title 26 with respect to which no certificate is in effect.

1956—Subsec. (a)(1)(B). Act Aug. 1, 1956, ch. 836, § 104(a), excluded from coverage service performed by foreign agricultural worekrs lawfully admitted on a temporary basis from any foreign country or possession thereof.

Subsec. (a)(6)(B)(ii). Act Aug. 1, 1956, ch. 836, § 104 (b)(1), included service performed in the employ of a Federal Home Loan Bank.

Subsec. (a)(6)(C)(vi). Act Aug. 1, 1956, ch. 836, § 104 (b)(2), substituted "Civil Service Retirement Act" for "Civil Service Retirement Act of 1930", and inserted "(other than the retirement system of the Tennessee Valley Authority)" following "retirement system".

Subsecs. (a) (16), (17). Act Aug. 1, 1956, ch. 836, §§ 104(c)(1), 121(c), added subsecs. (a) (16), (17).

Subsecs. (m), (n). Act Aug. 1, 1956, ch. 837, added subsecs. (m) and (n).

Subsec. (*o*). Act Aug. 1, 1956, ch. 836, § 105 (b), added subsec. (*o*).

1954—Subsec. (a)(B). Act Sept. 1, 1954, § 101(m), included within the definition of "employment" service performed outside the United States by citizens of the United States as employees for foreign subsidiaries of domestic corporations under certain conditions.

Subsec. (a)(1). Act Sept. 1, 1954, § 101(a)(4), removed the specific exception from employment of services performed in connection with the ginning of cotton, and added an exception for services performed by West Indian agricultural workers lawfully admitted to the United States on a temporary basis.

Subsec. (a)(3). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (4) as (3), and deleted former par. (3).

Subsec. (a)(4). Act Sept. 1, 1954, § 101(b), redesignated former par. (5) as (4), and made the exclusion with respect to services on non-American vessels or aircraft applicable only if the individual is not a United States citizen or the employer is not an American employer. Former par. (4) redesignated (3).

Subsec. (a)(5). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (a)(6)(B). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(c)(1)(A), inserted "by an individual" after "Service performed" and "and if such service is covered by a retirement system established by such instrumentality;" after "December 31, 1950."

Subsec. (a)(6)(B)(v). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(C)(1)(B), added cl. (v).

Subsec. (a)(6)(C). Act Sept. 1, 1954, § 101(a)(5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(C)(2), deleted the exception from coverage for services in the following categories; temporary employees in the Post Office Department field service; temporary census-taking employees of the Bureau of the Census; Federal employees paid on a contract or fee basis; Federal employees receiving compensation of $12 a year or less; certain consular agents; individuals employed under Federal unemployment relief programs; and members of State, county, or community committees under the Production and Marketing Administration and similar bodies, unless such bodies are composed exclusively of full-time Federal employee and limited the exclusion of inmates or patients of United States institutions to inmates of penal institutions.

Subsec. (a)(7)—(13). Act Sept. 1, 1954, § 101(a)(5), redesignated former pars. (8)-(14) as (7)-(13), respectively.

Subsec. (a)(14). Act Sept. 1, 1954, § 101(e), resignated former par. (16) as (14). Former par. (14) redesignated (13).

Subsec. (a)(15). Act Sept. 1, 1954, § 101(e), redesignated former par. (17) as (15), and deleted former par. (15).

Subsec. (k)(3)(C). Act Sept. 1, 1954, § 101(f), eliminated the requirement that the services of homeworkers be subject to State licensing laws in order to constitute covered employment.

1951—Subsec. (a)(1). Act Oct. 31, 1949, § 505(a), as added by act July 12, 1951, added subparagraph "(C)".

1950—Act Aug. 28, 1950, substituted a new section 410 for former section 410.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 123(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a)(3)(B) of this section and section 3121(b)(3)(B) of Title 26] shall apply with respect to services performed after December 31, 1967."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 311(c) of Pub. L. 89-97 provided that: "The amendments made by paragraphs (1) and (2) of subsection (a) [to section 411(c) of this title], and by paragraphs (1), (2), and (3) of subsection (b) [to section 1402 (c), (e)(1), (e)(2)(A) of Title 26], shall apply only with respect to taxable years ending on or after December 31, 1965. The amendments made by paragraphs (3) and (4) of subsection (a) [to subsec. (a)(6)(C)(iv) and (a)(13) of this section], and by paragraphs (4) and (5) of subsection (b) [to section 3121 (b)(6)(C)(iv), (b)(13) of Title 26], shall apply only with respect to services performed after 1965."

Section 317(g) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (a)(7) of this section and sections 3121(b)(7), 3125, 6205(a)(4), and 6413 (a)(4), (c)(2) of Title 26] shall apply with respect to service performed after the calendar quarter in which this section is enacted [quarter ending Sept. 30, 1965] and after the calendar quarter in which the Secretary of the Treasury receives a certification from the Commissioners of the District of Columbia expressing their desire to have the insurance system established by title II (and part A of title XVIII) of the Social Security Act [this subchapter and part A of subchapter XVIII of this chapter] extended to the officers and employees coming under the provisions of such amendments."

EFFECTIVE DATE OF 1961 AMENDMENTS

Amendment of this section by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment of section by Pub. L. 87-256 applicable with respect to service performed after Dec. 31, 1961, see section 110(h)(3) of Pub. L. 87-256, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 104(c) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) [to subsec. (a)(3) of this section and section 3121(b)(3) of Title 26] shall apply only with respect to services performed after 1960."

Amendment of subsec. (a)(7) of this section by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by Title II of the Social Security Act, this subchapter, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by this subchapter extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v) (1), (2) of Pub. L. 86-778, set out as a note under section 402 of this title.

Subsec. (a)(18) of this section applicable only with respect to service performed after 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Amendment of subsecs. (h) and (i) of this section by Pub. L. 86-778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

Amendment of subsecs. (h) and (i) of this section by Pub L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as a note under section 645 of Title 20, Education.

Repeal of former subsec. (j) of this section and redesignation of subsecs. (k)—(o) of this section as subsecs. (j)—(n) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment of section by Pub. L. 86-168 effective Jan. 1, 1960, see section 203(c) of Pub. L. 86-168, set out as a note under section 640*l* of Title 12, Banks and Banking.

Amendment of section by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 311 (b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [to subsec (a) (1) of this section] shall apply with respect to service performed after 1958."

Section 312 (b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [to subsec. (a) (8) (B) of this section] shall apply with respect to certificates filed under section 3121 (k) (1) of the Internal Revenue Code of 1954 [section 3121 (k) (1) of Title 26] after the date of enactment of this Act [August 28, 1958]."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 104 (i) of act Aug. 1, 1956, ch. 836, provided that:

"(1) The amendment made by subsection (a) [to subsec. (a) (1) (B) of this section] shall apply with respect to service performed after 1956. The amendments made by paragraph (1) of subsection (c) [to subsec. (a) (16) of this section] shall apply with respect to service performed after 1954. The amendment made by paragraph (2) of subsection (c) [to section 411 (a) (1) of this title] shall apply with respect to taxable years ending after 1955. The amendment made by paragraph (3) of subsection (c) [to section 411 (c) (2) of this title] shall apply with respect to taxable years ending after 1954. The amendment made by subsection (d) [to section 411 (c) (5) of this title] shall apply with respect to taxable years ending after 1955. The amendment made by subsection (h) [to section 411 (a) (7) (B) of this title] shall apply with respect to the same taxable years with respect to which the amendment made by section 201 (g) of this Act [to section 1402 (a) (8) (B) of Internal Revenue Code of 1954] applies.

"(2) (A) Except as provided in subparagraphs (B) and (C), the amendments made by subsection (b) [to subsecs. (a) (B) (ii) and (a) (6) (C) (vi) of this section] shall apply only with respect to service performed after June 30, 1957, and only if—

"(i) in the case of the amendment made by paragraph (1) of such subsection [to subsec. (a) (6) (B) (ii) of this section], the conditions prescribed in subparagraph (B) are met; and

"(ii) in the case of the amendment made by paragraph (2) of such subsection [to subsec. (a) (6) (C) (vi) of this section], the conditions prescribed in subparagraph (C) are met.

"(B) The amendment made by paragraph (1) of subsection (b) [to subsec. (a) (6) (B) (ii) of this section] shall be effective only if—

"(i) the Federal Home Loan Bank Board submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1957, a plan, with respect to employees of Federal Home Loan Banks, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act [this subchapter]; and

"(ii) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956.

If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (1) of subsection (b) [to subsec. (a) (6) (B) (ii) of this section] shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of a Federal Home Loan Bank on such day.

"(C) The amendment made by paragraph (2) of subsection (b) [to subsec. (a) (6) (C) (vi) of this section] shall be effective only if—

"(i) the Board of Directors of the Tennessee Valley Authority submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1957, a plan, with respect to employees of the Tennessee Valley Authority, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act [this subchapter]; and

"(ii) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956.

If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (2) of subsection (b) [to subsec. (a) (6) (C) (vi) of this section] shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of the Tennessee Valley Authority on such day.

"(D) The Secretary of Health, Education, and Welfare shall, on or before July 31, 1957, submit a report to the Congress setting forth the details of any plan approved by him under subparagraph (B) or (C)."

Subsecs. (m) and (n) effective Jan. 1, 1957.

Subsec. (o) of this section, added by section 105 (b) of act Aug. 1, 1956, ch. 836, as applicable with respect to service performed after 1956, see section 105(d) of such act Aug. 1, 1956, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsec. (a) by section 101 (a) (4), (5), of act Sept. 1, 1954 shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (a) (4), (6) (B) and (C), (14) and (15), and (k) (3) (C) made by section 101 (b), (c) (1) and (2), (e) and (f) of act Sept. 1, 1954 shall be applicable only with respect to services performed after 1954.

EFFECTIVE DATE OF 1950 AMENDMENT

Section as added by section 104 (a) to be effective Jan. 1, 1951, see note set out under section 409 of this title. Former section 410 was stricken out effective Sept. 1, 1950. by section 105 of act Aug. 28, 1950.

REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(1) of Pub. L. 87-293 repealed by Pub. L. 89-572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration, and all functions of the Survey were transferred to the Secretary of Commerce.

COVERED EMPLOYMENT NOT COUNTED UNDER OTHER FEDERAL RETIREMENT SYSTEMS

Section 115 of act Sept. 1, 1954, which prohibited counting employment under other Federal retirement systems in determining eligibility for benefits under this subchapter, was repealed by Pub. L. 91-630, § 1, Dec. 31, 1970, 84 Stat. 1875. Section 2 of Pub. L. 91-630 provided that such repeal shall not apply in the case of a person who, on Dec. 31, 1970, is receiving or is entitled to receive benefits under any retirement system established by th United States or any instrumentality thereof unless he requests, in writing, the office which administers his retirement system to apply it in this case, and that any additional benefits payable pursuant to such request shall commence on January 1, 1971.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 404, 405, 409, 411, 415, 416, 417, 418, 426a, 428, 429, 1395x of this title; title 20 sections 125, 880b-2; title 26 section 3121; title 33 section 857; title 45 sections 228e, 228q.

§ 410a. Limitation on definition of employment.

CODIFICATION

Section, act Aug. 29, 1935, ch. 812, § 17, as amended June 24, 1937, ch. 382, part I, § 1, 50 Stat. 317, part of Railroad Retirement Act, limited term "employment" as defined in former section 410, which section 410 was omitted by amendment of title II by act Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362. See note under section 228q of Title 45, Railroads.

§ 411. Definitions relating to self-employment.

For the purposes of this subchapter—

(a) Net earnings from self-employment.

The term "net earnings from self-employment" means the gross income, as computed under chapter 1 of Title 26, Internal Revenue Code of 1939, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of Title 26, Internal Revenue Code of 1939, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 25(a) of Title 26, Internal Revenue Code of 1939) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss (A) which is considered under chapter 1 of Title 26, Internal Revenue Code of 1939, as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 of Title 26, Internal Revenue Code of 1954, applies to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 23(s) of Title 26, Internal Revenue Code of 1939, shall not be allowed:

(5)(A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which cases all of such gross income and deductions shall be treated as the gross income and deductions of the wife;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of the Commonwealth of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of Title 26, Internal Revenue Code of 1954;

(7) An individual who is duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection

(c)(4) of this section without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of Title 26, Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 410(e) of this title) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of Title 26, Internal Revenue Code of 1954;

(8) The term "possession of the United States" as used in sections 931 (relating to income from sources within the possessions of the United States) and 932 (relating to citizens of possessions of the United States) of Title 26, Internal Revenue Code of 1954, shall be deemed not to include the Virgin Islands, Guam, or American Samoa; and

(9) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary of the Treasury or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) no obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A).

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 410(f) of this title—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of Title 26, Internal Revenue Code of 1954, applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) of Title 26, Internal Revenue Code of 1954, derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of Title 26, Internal Revenue Code of 1954, applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) of Title 26, Internal Revenue Code of 1954, derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600, his distributive share of income described in such section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

(b) Self-employment income.

The term "self-employment income" means the net earnings from self-employment derived by an

individual (other than a nonresident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) $3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and prior to 1959, (i) $4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958 and prior to 1966, (i) $4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(D) For any taxable year ending after 1965 and prior to 1968, (i) $6,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(E) For any taxable year ending after 1967, (i) $7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than $400.

An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purpose of this subsection, be considered to be a nonresident alien individual.

(c) Trade or business.

The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 23 of Title 26, Internal Revenue Code of 1939, except that such term shall not include—

(1) The performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Secretary pursuant to section 418 of this title;

(2) The performance of service by an individual as an employee, other than—

(A) service described in section 410(a)(14) (B) of this title performed by an individual who has attained the age of eighteen,

(B) service described in section 410(a)(16) of this title,

(C) service described in section 410(a) (11), (12), or (15) of this title performed in the United States by a citizen of the United States,

(D) service described in paragraph (4) of this subsection, and

(E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Secretary pursuant to section 418 of this title;

(3) The performance of service by an individual as an employee or employee representative as defined in section 1532 of Title 26, Internal Revenue Code of 1939;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) The performance of service by an individual during the period for which an exemption under section 1402(h) of Title 26, Internal Revenue Code of 1954, is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual unless an exemption filed by him under section 1402(e) of Title 26, Internal Revenue Code of 1954, is effective with respect to him.

(d) Partnership and partner.

The term "partnership" and the term "partner" shall have the same meaning as when used in supplement F of chapter 1 of Title 26, Internal Revenue Code of 1939.

(e) Taxable year.

The term "taxable year" shall have the same meaning as when used in chapter 1 of Title 26, Internal Revenue Code of 1939; and the taxable year of any individual shall be a calendar year unless he has a different taxable year for the purposes of chapter 1 of Title 26, Internal Revenue Code of 1939, in which case his taxable year for the purposes of this subchapter shall be the same as his taxable year under chapter 1 of Title 26, Internal Revenue Code of 1939.

(f) Partner's taxable year ending as result of death.

In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term "deceased partner's distributive share" includes the share of his estate or of any

other person succeeding, by reason of his death, to rights with respect to his partnership interest. (Aug. 14, 1935, ch. 531, title II, § 211, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended Sept. 23, 1950, ch. 994, title II, § 221(j)(2), 64 Stat. 947; Sept. 1, 1954, ch. 1206, title I, §§ 101(d), (g), 104(b), 68 Stat. 1054, 1078; Aug. 1, 1956, ch. 836, title I, §§ 104(c)(2), (3), (d), (h), 106(a), 70 Stat. 824–826, 828; Aug. 30, 1957, Pub. L. 85–239, § 5(a), 71 Stat. 523; Aug. 28, 1958, Pub. L. 85–840, title I, § 102(b), title III, § 313(a), 72 Stat. 1019, 1036; Sept. 13, 1960, Pub. L. 86–778, title I, §§ 103(g), (h), (j)(3), 106(a), 74 Stat. 937, 938, 945; Feb. 26, 1964, Pub. L. 88–272, title II, § 227(b)(7), 78 Stat. 98; July 30, 1965, Pub. L. 89–97, title III, §§ 311(a)(1), (2), 312(a), 319(b), 320(a)(2), 79 Stat. 380, 381, 391, 393; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 108(a)(2), 115(a), 118(b), 122(a), 81 Stat. 834, 839, 841, 843.)

REFERENCES IN TEXT

Chapter 1 of Title 26, Internal Revenue Code of 1939, referred to in subsecs. (a) and (e), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by Subtitle A of said Title 26.

Section 183 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by sections 702, 703 of said Title 26.

Section 25(a) of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a) (2), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 35 of said Title 26.

Section 23 (s) of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a)(4), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 172 of said Title 26.

Section 23 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (c), was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by section 161 section 172 of said Title 26.

Section 1532 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (c) (3), was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by sections 3231, 7701 (a)–(9) of said Title 26.

Supplement F of chapter 1 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (d), was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by sections 701—704, 706, 6031, 6063, 6065(a) of said Title 26.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 118(b), added par. (9).

Subsec. (b)(1)(D), (E). Pub. L. 90–248, § 108(a)(2)(A) and (B) inserted "and prior to 1968" after "1965" and added subpar. (E), respectively.

Subsec. (c). Pub. L. 90–248, § 115(a), substituted in the last sentence "unless an exemption under section 1402(e) of Title 26 is effective with respect to him" for "during the period for which a certificate filed by him under section 1402(e) of Title 26 is in effect".

Subsec. (c)(1). Pub. L. 90–248, § 122(a)(1), included in the term "trade or business" functions of a public office of a State or political subdivision thereof with respect to fees received in a position compensated solely on a fee basis and which position is not covered under a State social security coverage agreement.

Subsec. (c)(2)(E). Pub. L. 90–248, § 122(a)(2), added subpar. (E).

1965—Subsec. (a). Pub. L. 89–97, § 312(a), substituted "$2,400" for "$1,800" in clauses (i)—(iv) and "$1,600" for "$1,200" in clauses (ii) and (iv) of second sentence following par. (8), wherever appearing.

Subsec. (b)(1)(C). Pub. L. 89–97, § 320(a)(2)(A), inserted "and prior to 1966" after "1958" and substituted "and" for "or" after the semicolon.

Subsec. (b)(1)(D). Pub. L. 89–97, § 320(a)(2)(B), added subpar. (D).

Subsec. (c). Pub. L. 89–97, § 311(a) (1), (2), deleted from par. (5) "doctor of medicine or" preceding and "; or the performance of such service by a partnership" following "Christian Science practitioner" and consolidated into one sentence former last two sentences.

Subsec. (c)(6). Pub. L. 89–97, § 319(b), added par. (6).

1964—Subsec. (a)(3)(B), Pub. L. 88–272 substituted ", coal, or iron ore, if section 631 of Title 26 applies" for "or coal, if section 117(j) of Title 26 is applicable."

1960—Subsec. (a)(6). Pub. L. 86–778, § 103 (j)(3), substituted "section 933 of Title 26" for "section 116(1) of Title 26", and eliminated provisions which defined the term "possession of the United States" in the case of taxable years beginning before the effective date specified in former section 419 of this title.

Subsec. (a)(8). Pub. L. 86–778, § 103(g), added par. (8), and inserted a reference to paragraph (8) in cls. (v) and (vi) of the last sentence.

Subsec. (b). Pub. L. 86–778, § 103(h), provided that individuals who are not citizens of the United States but who are residents of Guam or American Samoa shall not, for the purposes of this subsection, be considered to be nonresident alien individuals, and eliminated provisions which related to individuals who were citizens of Puerto Rico prior to the effective date specified in section 419 of this title.

Subsec. (c)(2). Pub. L. 86–778, § 106(a), excluded service described in section 410(a) (11), (12), or (15) of this title performed in the United States by a citizen of the United States.

1958—Subsec. (b)(1). Pub. L. 85–840, § 102(b), inserted "and prior to 1959" following "year ending after 1954" in cl. (B), and added cl. (C).

Subsec. (f). Pub. L. 85–840, § 313(a), added subsec. (f).

1957—Subsec. (a)(7). Pub. L. 85–239 permitted computation of net earnings without regard to sections 107 and 119 of Title 26, Internal Revenue Code of 1954.

1956—Subsec. (a). Act Aug. 1, 1956, § 106(a), amended generally the last two sentences to include those businesses in which the income is computed under an accrual method, and partnerships, to change the method of computation of net earnings for individuals by permitting those whose gross income is not more than $1,800 to deem their net earnings to be 66⅔ percent of such gross income, and those whose gross income is more than $1,800 and the net earnings are less than $1,200, to deem the net earnings to be $1,200, and to provide for the computation of net earnings for members of partnerships.

Subsec. (a)(1). Act Aug. 1, 1956, § 104(c)(2), eliminated from the exclusion, income derived by an owner or tenant to land if such income is derived under an arrangement with another individual for the production by such other individual of agricultural or horticultural commodities if such arrangement provides for material participation by the owner or tenant in the production or the management of the production of such commodities, and there is material participation by the owner or tenant with respect to any such commodity.

Subsec. (a)(7)(B). Act Aug. 1, 1956, § 104(h), included citizens of the United States who are ministers in foreign countries and have congregations composed predominantly of citizens of the United States.

Subsec. (c)(2). Act Aug. 1, 1956, § 104(c)(3), included within the term "trade or business" service described in section 410(a)(16) of this title.

Subsec. (c)(5). Act Aug. 1, 1956, §104(d), eliminated the exclusion from coverage in the case of lawyers, dentists, osteopaths, veterinarians, chiropractors, naturopaths, and optometrists.

1954—Subsec. (a)(1). Act Sept. 1, 1954, § 101(g)(2), made it clear that rentals paid in crop shares would be excluded as being rentals from real estate.

Subsec. (a)(2). Act Sept. 1, 1954, § 101(g)(1), redesignated former par. (3) as (2), and deleted former par. (2).

Subsec. (a)(3). Act Sept. 1, 1954, § 101(g)(3), redesignated former par. (4) as (3), and excluded from "net earnings from self-employment" the gain or loss derived from coal royalties under certain conditions.

Subsec. (a)(4)—(6). Act Sept. 1, 1954, § 101(g)(1), redesignated former pars. (5)—(7) as (4)—(6), respectively.

Subsec. (a)(7). Act Sept. 1, 1954, § 101(d)(3), added par. (7).

Subsec. (a). Act Sept. 1, 1954, § 101(g)(1), added two new sentences at the end of the subsection.

Subsec. (b)(1). Act Sept. 1, 1954, § 104(b), excluded from self-employment income, for taxable years after 1954 any amount in excess of $4,200 minus the amount of the wages paid to an individual during the taxable year.

Subsec. (c). Act Sept. 1, 1954, § 101(d)(2), added two new sentences at the end thereof making the provisions of par. (4) inapplicable to service performed during the period for which a certificate filed under section 1402(e) of Title 26, Internal Revenue Code of 1954, is in effect.

Subsec. (c)(2). Act Sept. 1, 1954, 101(d)(1), inserted after the word "eighteen", the words "and other than service described in paragraph (4) of this subsection."

Subsec. (c)(5). Act Sept. 1, 1954, § 101(g)(4), eliminated the exclusion from coverage in the case of architects, certified public accountants, accountants registered or licensed as accountants under State or municipal law, full-time practicing public accountants, funeral directors, or professional engineers.

1950—Subsec. (a)(7). Act Sept. 23, 1950, made provisions applicable to Puerto Rico, and provided the basis for computation of net earnings.

Effective Date of 1968 Amendment

Enactment of subsec. (a)(9) of this section by section 118(b) of Pub. L. 90–248 applicable only with respect to taxable years ending on or after Dec. 31, 1967, see section 118(c) of Pub. L. 90–248, set out as a note under section 1402 of Title 26, Internal Revenue Code.

Amendment of subsec. (b)(1)(D), (E) of this section by section 108(a)(2) of Pub. L. 90–248 applicable only with respect to taxable years ending after 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of this title.

Amendment of subsec. (c) by section 115(a) of Pub. L. 90–248 applicable only with respect to taxable years ending after 1967, see section 115(c) of Pub. L. 90–248, set out as a note under section 1402 of Title 26, Internal Revenue Code.

Amendments of subsec. (c)(1), (2) of this section by section 122(a)(1), (2) of Pub. L. 90–248 applicable with respect to fees received after 1967 and with respect to election to exempt fees from coverage as self-employment income, see section 122(c) of Pub. L. 90–248, set out as a note under section 1402 of Title 26.

Effective Date of 1965 Amendment

Section 312(c) of Pub. L. 89–97 provided that: "The amendments made by this section [amending subsec. (a) of this section and subsec. (a) of section 1402 of Title 26] shall apply only with respect to taxable years beginning after December 31, 1965."

Amendment of subsec. (b)(1)(C), (D), by section 320 of Pub. L. 89–97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of Title 26.

Amendment of subsec. (c) by Pub. L. 89–97 applicable only with respect to taxable years ending on or after Dec. 31, 1965, see section 311(c) of Pub. L. 89–97, set out as a note under section 410 of this title.

Amendment of subsec. (c) by section 319 of Pub. L. 89–97 applicable with respect to taxable years beginning after December 31, 1950, see section 319(e) of Pub. L. 89–97, set out as a note under section 1402 of Title 26.

Effective Date of 1964 Amendment

Amendment of section by Pub. L. 88–272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88–272, set out as a note under section 272 of this title.

Effective Date of Amendment

Amendment of subsec. (a)(6) of this section by Pub. L. 86–778 effective on Sept. 13, 1960, see section 103(v)(1), (3) of Pub. L. 86–778, set out as a note under section 402 of this title.

Enactment of subsec. (a)(8) of this section applicable only in the case of taxable years beginning after 1960, except that, insofar as such enactment involves the nonapplication of section 932 of Title 26 to the Virgin Islands for purposes of chapter 2 of Title 26 and this section, such enactment shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and this section are applicable, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

Amendment of subsec. (b) of this section by Pub. L. 86–778 applicable only in the case of taxable years beginning after 1960, see section 103(v) (1), (3) of Pub. L. 86–778, set out as a note under section 402 of this title.

Section 106(c) of Pub. L. 86–778 provided that: "The amendments made by this section [to subsec. (c)(2) of this section and section 1402(c)(2) of Title 26] shall apply only with respect to taxable years ending on or after December 31, 1960; except that for purposes of section 203 of the Social Security Act [section 403 of this title], the amendment made by subsection (a) [to subsec. (c)(2) of this section] shall apply only with respect to taxable years (of the individual performing the service involved) beginning after the date of the enactment of this Act [Sept. 13, 1960]."

Effective Date of 1958 Amendment

Section 313 (b) of Pub. L. 85–840 provided that:

"The amendment made by subsection (a) [adding subsec. (f) of this section] shall apply—

"(1) with respect to individuals who die after the date of the enactment of this Act [Aug. 28, 1958], and

"(2) with respect to any individual who died after 1955 and on or before the date of the enactment of this Act [Aug. 28, 1958], but only if the requirements of section 403 (b) (2) of this Act [section 603 (b) (2) of this title] are met."

Effective Date of 1957 Amendment

Amendment of subsec. (a)(7) by Pub. L. 85–239 applicable, except for purposes of section 403 of this title, only with respect to taxable years ending on or after December 31, 1957, see section 5 (c) of Pub. L. 85–239, set out as a note under section 1402 of Title 26, Internal Revenue Code of 1954.

Effective Date of 1956 Amendment

Amendment of subsecs. (a) (1) and (c) (5) of this section by section 104(c)(2), (d) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1955, see section 104 (i) of such act Aug. 1, 1956, set out as a note under section 410 of this title.

Amendment of subsec. (a) (7) (B) by section 104 (h) of act Aug. 1, 1956, applicable with respect to the same taxable years with respect to which the amendment to section 3121 (k) (1) of Title 26, Internal Revenue Code of 1954 applies, see section 104 (i) of act Aug. 1, 1956, set out as a note under section 410 of this title, and section 201 (m) (2) of such act Aug. 1, 1956, set out as a note under section 3121 of Title 26, Internal Revenue Code of 1954.

Amendment of subsec. (c) (2) of this section by section 104(c)(3) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1954, see section 104 (i) of act Aug. 1, 1956, set out as a note under section 410 of this title.

Section 106 (b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [to the last two sentences of subsec. (a) of this section] shall be effective with respect to taxable years ending on or after December 31, 1956."

Effective Date of 1954 Amendment

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendment to subsec. (a) (3) by section 101 (g)(3) of act Sept. 1, 1954 shall be applicable only with respect to taxable years beginning after 1950 and

that the amendments to subsecs. (a) and (c) by section 101 (d), (g) (1), (2), (4), of act Sept. 1, 1954 should be applicable only with respect to taxable years ending after 1954.

Section 101 (n) of act Sept. 1, 1954, also provided in part that: "For purposes of section 203 of the Social Security Act, the amendments [to subsecs. (a) and (c) of this section] made by paragraphs (1), (2), and (4) of subsection (g) and by subsection (d) [of said section 101] shall be effective with respect to net earnings from self-employment derived after 1954. The amount of net earnings from self-employment derived during any taxable year ending in, and not with the close of, 1955 shall be credited equally to the calendar quarter in which such taxable year ends and to each of the three or fewer preceding quarters any part of which is in such taxable year; and, for purposes of the preceding sentence of this subsection, net earnings from self-employment so credited to calendar quarters in 1955 shall be deemed to have been derived after 1954."

EFFECTIVE DATE OF 1950 AMENDMENT

Amendment of section by act Sept. 23, 1950, was applicable with respect to taxable years beginning after Dec. 31, 1950.

EFFECTIVE DATE

Section effective Jan. 1, 1951, see note set out under section 409 of this title.

TREATY OBLIGATIONS

Section 214 of act Sept. 23, 1950, provided that: "No amendment made by this Act [act Sept. 23, 1950] shall apply in any case where its application would be contrary to any treaty obligation of the United States."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 405, 424a of this title; title 20 section 880b–2; title 45 section 228e.

§ 412. Self-employment income credited to calendar quarters.

For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year shall be credited to calendar quarters as follows:

(a) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

(b) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year. (Aug. 14, 1935, ch. 531, title II, § 212, as added Aug. 28, 1950, ch. 809, title I, § 104 (a), 64 Stat. 492.)

EFFECTIVE DATE

Section effective Jan. 1, 1951, see note set out under section 409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 413, 415 of this title and in title 20 section 880b–2.

§ 413. Quarter and quarter of coverage.

(a) Definitions.

For the purposes of this subchapter—

(1) The term "quarter", and the term "calendar quarter", means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) The term "quarter of coverage" means a quarter in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more; and

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary

insurance amount, or the requirements of paragraph (3) of section 416(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 414(a)(3) of this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

(b) Crediting of wages paid in 1937.

With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

(c) Alternative method for determining quarters of coverage with respect to wages in the period from 1937 to 1950.

For purposes of section 414(a) of this title, an individual shall be deemed to have one quarter of coverage for each $400 of his total wages prior to 1951 (as defined in section 415(d)(1)(C) of this title), except where—

(1) such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to him for periods after 1950, or

(2) such individual's elapsed years (for purposes of section 414(a)(1) of this title) are less than 7.

(Aug. 14, 1935, ch. 531, title II, § 213, as added Aug. 28, 1950, ch. 809, title I, 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, §§ 3(a), 66 Stat. 770; Sept. 1, 1954, ch. 1206, title I, §§ 104(c), 106(a), 108(b), 68 Stat. 1078, 1084; Aug. 1, 1956, ch. 836, title I, § 105(c), 70 Stat. 828; Aug. 28, 1958, Pub. L. 85-840, title I, § 102(c), 72 Stat. 1019; Apr. 22, 1960, Pub. L. 86-442, § 3, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86-778, title II, § 206(a), 74 Stat. 949; June 30, 1961, Pub. L. 87-64, title I, § 102(c)(2)(A), (3)(B), 75 Stat. 134, 135; July 30, 1965, Pub. L. 89-97, title III, § 320(a)(3), 79 Stat. 393; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 108(a)(3), 155(b)(1), 81 Stat. 834, 865.)

AMENDMENTS

1968—Subsec. (a)(2)(ii). Pub. L. 90-248, § 108(a)(3)(A), inserted "and before 1968, or $7,800 in the case of a calendar year after 1967" after "1965".

Subsec. (a)(2)(iii). Pub. L. 90-248, § 108(a)(3)(B), inserted "and before 1968, or $7,800 in the case of a taxable year ending after 1967" after "1965".

Subsec. (c). Pub. L. 90-248, § 155(b)(1), added subsec. (c).

1965—Subsec. (a)(2)(ii). Pub. L. 89-97, § 320(a)(3)(A), substituted "after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965" for "after 1958".

Subsec. (a)(2)(iii). Pub. L. 89-97, § 320(a)(3)(B), substituted "after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965" for "after 1958".

1961—Subsec. (a). Pub. L. 87-64 substituted "has attained age 62" for "has attained retirement age", and "who attained age 62 (if a woman) or age 65 (if a man)" for "who attained retirement age."

1960—Subsec. (a)(2). Pub. L. 86-778 required each quarter of a calendar year before 1951 to be counted as a quarter of coverage if the individual received wages equal to $3,000 in the calendar year.

Pub. L. 86-442 added sentence in cl. (B) to permit the quarters of coverage in a calendar year to be determined on the basis of the periods during which wages were earned in the case of individuals who did not die prior to Jan. 1, 1955, and who attained retirement age or died before July 1, 1957, who did not meet the requirements for insured status because of having too few quarters of coverage but who would meet the requirements if the quarters of coverage in the first calendar year in which they had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid.

1958—Subsec. (a)(2)(B). Pub. L. 85-840 inserted "and before 1959, or $4,800 in the case of a calendar year after 1958" following "after 1954" in cl. (ii), and "and before 1959, or $4,800 in the case of a taxable year ending after 1958" following "after 1954" in cl. (iii).

1956—Subsec. (a)(2)(B)(iv). Act Aug. 1, 1956, substituted "if such wages equal or exceed $100 but are less than $200" for "if such wages are less than $200".

1954—Subsec. (a)(2)(A). Act Sept. 1, 1954, § 106(a)(1), redefined "quarter of coverage," in the case of quarters occurring before 1951, to exclude any quarter any part of which was included in a period of disability, other than the initial quarter of such period, and which provided that any quarter any part of which was included in a period of disability, other than the first quarter of such period, could not be counted as a quarter of coverage in a calendar year in which wages of $3,000 or more were paid.

Subsec. (a)(2)(B). Act Sept. 1, 1954, § 104(c), provided that for calendar years after 1954 an individual

shall be credited with a quarter of coverage for each quarter of the year if his wages for the year equal $4,200 and he shall be credited with a quarter of coverage for each quarter of a taxable year ending after 1954 in which the sum of his wages and self-employment income equal $4,200.

Act Sept. 1, 1954, § 108(b), provided for crediting quarters of coverage on the basis of annual amounts of wages received for agricultural labor.

Subsec. (a)(2)(B)(i). Act Sept. 1, 1954, § 106(a)(2), redefined "quarter of coverage", for quarters occurring after 1950, to exclude any quarter any part of which was included in a period of disability, other than the first and last quarters of such period.

1952—Subsec. (a)(2)(A). Act July 18, 1952, § 3(a)(1), redefined the term "quarter of coverage".

Subsec. (a)(2)(B(i). Act July 18, 1952, § 3(a)(2), added "and no quarter * * * quarter of coverage".

Subsec. (a)(2)(B)(iii). Act July 18, 1952, § 3(a)(3), substituted "shall (subject to clause (i) of this subparagraph) be a quarter of coverage" for "shall be a quarter of coverage".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2)(ii) by section 108(a)(3)(A) of Pub. L. 90–248 applicable only with respect to remuneration paid after December 1967, and amendment of subsec. (a)(2)(iii) by section 108(a)(3)(B) applicable only with respect to taxable years ending after 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of this title.

Section 155(b)(2) of Pub. L. 90–248 provided that: "The amendment made by paragraph (1) [enacting subsec. (c) of this section] shall apply only in the case of an individual who applies for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] after the date of the enactment of this Act [Jan. 2, 1968], or who dies after such date without being entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of this title]."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a)(2)(ii) by section 320(a)(3)(A) of Pub. L. 89–97 applicable with respect to remuneration paid after December, 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of Title 26.

Amendment of subsec. (a)(2)(iii) by section 320(a)(3)(B) of Pub. L. 89–97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of Title 26.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87–64, set out as notes under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 206(b) of Pub. L. 86–778 provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a) [to subsec. (a)(2) of this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter], and the lump-sum death payment under section 202 of such Act [section 402 of this title], based on the wages and self-employment income of an individual—

"(A) who becomes entitled to benefits under section 202(a) or 223 of such Act [section 402(a) or 423 of this title] on the basis of an application filed in or after the month in which this Act is enacted [Sept. 1960]; or

"(B) who is (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(b)(6) of this section], be) entitled to a recomputation of his primary insurance amount under section 215(f)(2)(A) of such Act [section 415(f)(2)(A) of this title] on the basis of an application filed in or after the month in which this Act is enacted [Sept. 1960]; or

"(C) who dies without becoming entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of this title], and (unless he dies a currently insured individual but not a fully insured individual (as those terms are defined in section 214 of such Act) [section 414 of this title] without leaving any individual entitled (on the basis of his wages and self-employment income) to survivor's benefits or a lump-sum death payment under section 202 of such Act on the basis of an application filed prior to the month in which this Act is enacted [Sept. 1960]; or

"(D) who dies in or after the month in which this Act is enacted [Sept. 1960] and whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title]; or

"(E) who dies prior to the month in which this Act is enacted [Sept. 1960] and (i) whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title], and (ii) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] on the basis of an application filed prior to the month in which this Act is enacted [Sept. 1960] (and no individual was entitled to such a benefit, without the filing of an application, for any month prior to the month in which this Act is enacted [Sept. 1960]); or

"(F) who files an application for a recomputation under section 102(f)(2)(B) of the Social Security Amendments of 1954 [set out as a note under section 415 of this title] in or after the month in which this Act is enacted [Sept. 1960] and is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount, be) entitled to have his primary insurance amount recomputed under such subparagraph; or

"(G) who dies and whose survivors are (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, on the basis of an application filed in or after the month in which this Act [Sept. 1960] is enacted, to have his primary insurance amount recomputed under section 102(f)(2)(B) of the Social Security Amendments of 1954 [set out as a note under section 415 of this title].

"(2) The amendment made by subsection (a) [to subsec. (a)(2) of this section] shall also be applicable in the case of applications for disability determination under section 216(i) of the Social Security Act [section 416(i) of this title] filed in or after the month in which this Act is enacted [Sept. 1960].

"(3) Notwithstanding any other provision of this subsection, in the case of any individual who would not be a fully insured individual under section 214(a) of the Social Security Act [section 414(a) of this title] except for the enactment of this section, no benefits shall be payable on the basis of his wages and self-employment income for any month prior to the month in which this Act is enacted [Sept. 1960]."

Section 3 of Pub. L. 86-442 provided in part that: "This amendment [to subsec. (a)(2)(B)] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month; the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in sections 202(i) and 202(j) of such title [sections 402(i) and 402(j) of this title], shall not apply if an application is filed within the one-year period beginning with the first day of the month after the month in which this Act is enacted [April 1960]."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsec. (a) made by section 106(a) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 3 (f) of act July 18, 1952, provided that: "Notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], the amendments made by subsections (a), (b), (c), and (d) of this section [to sections 413—416, 420, and 421 of this title] shall apply to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after June 1953, and to lump-sum death payments under such title in the case of deaths occurring after June 1953; but no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act [section 415 (f) of this title]."

TERMINATION DATE OF 1952 AMENDMENTS

Section 3 (g) of act July 18, 1952, provided that: "Notwithstanding the preceding provisions of this section and the amendments made thereby [to sections 413—416, 420, and 421 of this title], such provisions and amendments shall cease to be in effect at the close of June 30, 1953, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this Act [act July 18, 1952] had not been enacted."

EFFECTIVE DATE

Section effective Jan. 1, 1951, see note set out under section 409 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 607 of this title and in title 20 section 880b-2.

§ 414. Insured status for purposes of old-age and survivors insurance benefits.

For the purposes of this subchapter—

(a) Fully insured individual.

The term "fully insured individual" means any individual who had not less than—

(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before—

(A) in the case of a woman, the year in which she died or (if earlier) the year in which she attained age 62,

(B) in the case of a man who has died, the year in which he died or (if earlier) the year in which he attained age 65, or

(C) in the case of a man who has not died, the year in which he attained (or would attain) age 65,

except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or

(2) 40 quarters of coverage; or

(3) in the case of an individual who died before 1951, 6 quarters of coverage;

not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 416(i) of this title).

(b) Currently insured individual.

The term "currently insured individual" means any individual who had not less than six quarters of coverage during the thirteen-quarter period ending with (1) the quarter in which he died, (2) the quarter in which he became entitled to old-age insurance benefits, (3) the quarter in which he became entitled to primary insurance benefits under this subchapter as in effect prior to August 28, 1950, or (4) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits, not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage. (Aug. 14, 1935, ch. 531, title II, § 214, as added Aug. 28, 1950, ch. 809, title I, § 104 (a), 64 Stat. 492, and amended July 18, 1952, ch. 945, § 3 (b), 66 Stat. 770; Sept. 1, 1954, ch. 1206, title I, §§ 106 (b), 108 (a), 68 Stat. 1079, 1083; Aug. 1, 1956, ch. 836, title I, § 108, 70 Stat. 830; Aug. 28, 1958, Pub. L. 85-840, title II, § 205 (*l*), 72 Stat. 1025; Sept. 13, 1960, Pub. L. 86-778, title II, § 204(a), 74 Stat. 948; June 30, 1961, Pub. L. 87-64, title I, § 103(a), 75 Stat. 137.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-64 required one quarter of coverage for each calendar year elapsing after 1950 (or after the year in which the individual attained age 21, if that was later than 1950) instead of one quarter of coverage for each three of the quarters elapsing after 1950, and eliminated words "unless such quarter was a quarter of coverage" which followed "a period of disability (as defined in section 411(i) of this title)."

1960—Subsec. (a). Pub. L. 86-778 changed the provisions which required an individual to have one quarter of coverage for each two quarters to provide that an individual is fully insured if he has not less than one quarter of coverage for each three quarters elapsing after Dec. 31, 1950, or, if later, December 31 of the year in which he attained the age of 21 years, and inserted provisions defining fully insured in the case of an individual who died prior to 1951 as one who had six quarters of coverage.

1958—Subsec. (b). Pub. L. 85-840 included within the definition of "currently insured individual" an individual

entitled to disability insurance benefits who has not less than six quarters of coverage during the thirteen-quarter period ending with the quarter in which he most recently became entitled to disability insurance benefits.

1956—Subsec. (a)(3). Act Aug. 1, 1956, provided that an individual who had at least six quarters of coverage after 1954 would be fully insured if all but four of the quarters elapsing after 1954 and prior to July 1, 1957, or if later, the quarter in which he attained retirement age or died, whichever first occurred, are quarters of coverage.

1954—Subsec. (a)(2)(B). Act Sept. 1, 1954, § 106(b)(1), excluded from the elapsed period under subsec. (a)(2)(A) any quarter any part of which was included in a period of disability, unless such quarter was a quarter of coverage.

Subsec. (a)(3), (4). Act Sept. 1, 1954, §108(a), redesignated par. (3) as par. (4) and added a new par. (3).

Subsec. (b). Act Sept. 1, 1954, § 106(b)(2), added at the end the words ", not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage."

1952—Subsec. (a)(2)(B). Act July 18, 1952, § 3(b)(1), added "not counting as * * * quarter of coverage".

Subsec. (b). Act July 18, 1952, § 3(b)(2), added "not counting as * * * quarter of coverage" following "August 28, 1950".

EFFECTIVE DATE OF 1961 AMENDMENT

Section 103(b) of Pub. L. 87-64 provided that:

"The amendment made by subsection (a) [to subsec. (a) of this section] shall apply—

"(1) in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note under section 402 of this title], based on applications filed in or after March 1961,

"(2) in the case of lump-sum death payments under such title [this subchapter] with respect to deaths on or after the effective date of this title [see note under section 402 of this title], and

"(3) in the case of an application for a disability determination (with respect to a period of disability, as defined in section 216(i) of such Act [section 416(i) of this title]) filed in or after March 1961."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 204(d)(1) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) of this section [to subsec. (a) of this section and to section 109(b) of Act Sept. 1, 1954, set out as a note under this section] shall be applicable (A) in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month, (B) in the case of lump-sum death payments under such title with respect to deaths occurring after such month, and (C) in the case of an application for a disability determination with respect to a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) filed after such month."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (b) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsecs. (a) (2) (B) and (b) made by section 106 (b) of act Sept. 1, 1954 shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

For effective and termination date, see note set out under section 413 of this title.

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see note set out under section 409 of this title.

DETERMINATION OF ENTITLEMENT TO MONTHLY BENEFITS FOR SEPT. 1960 AND PRIOR MONTHS AND INDIVIDUAL'S CLOSING DATE PRIOR TO 1960

Section 204(d)(2) of Pub. L. 86-778 provided that: "For the purposes of determining (A) entitlement to monthly benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [Sept. 1960] and prior months with respect to the wages and self-employment income of an individual and (B) an individual's closing date prior to 1960 under section 215(b)(3)(B) of the Social Security Act [section 415(b)(3)(B) of this title], the provisions of section 214(a) of the Social Security Act [subsec. (a) of this section] in effect prior to the date of the enactment of this Act [Sept. 13, 1960] and the provisions of section 109 of the Social Security Amendments of 1954 [set out as a note under section 415 of this title] in effect prior to such date shall apply."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 413, 416, 423, 427 of this title; title 20 section 880b-2; title 38 section 412.

§ 415. Computation of primary insurance amount.

For the purposes of this subchapter—

(a) Primary insurance amount.

Subject to the conditions specified in subsections (b), (c), and (d) of this section, the primary insurance amount of an insured individual shall be whichever of the following is the largest:

(1) The amount in column IV on the line on which in column III of the following table appears his average monthly wage (as determined under subsection (b) of this section);

(2) The amount in column IV of the line on which in column II of the following table appears his primary insurance amount (as determined under subsection (c) of this section);

(3) The amount in column IV on the line on which in column I of the following table appears his primary insurance benefit (as determined under subsection (d) of this section); or

(4) In the case of an individual who was entitled to a disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, the amount in column IV which is equal to the primary insurance amount upon which such disability insurance benefit is based.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1967 Act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$16.20	$55.40 or less	----------	$76	$64.00	$96.00
$16.21	16.84	56.50	$77	78	65.00	97.50
16.85	17.60	57.70	79	80	66.40	96.60
17.61	18.40	58.80	81	81	67.70	101.60
18.41	19.24	59.90	82	83	68.90	103.40
19.25	20.00	61.10	84	85	70.30	105.60
20.01	20.64	62.20	86	87	71.60	107.40
20.65	21.28	63.30	88	89	72.80	109.20
21.29	21.88	64.50	90	90	74.20	111.30
21.89	22.28	65.60	91	92	75.50	113.30
22.29	22.68	68.70	93	94	76.80	115.20
22.69	23.08	67.80	95	96	78.00	117.00
23.09	23.44	69.00	97	97	79.40	119.10
23.45	23.76	70.20	98	99	80.80	121.20
23.77	24.20	71.50	100	101	82.30	123.50
24.21	24.60	72.60	102	102	83.50	125.30
24.61	25.00	73.80	103	104	84.90	127.40
25.01	25.48	76.10	105	106	86.40	129.60
25.49	25.92	76.30	107	107	87.80	131.70
25.93	26.40	77.50	108	109	89.20	133.80
26.41	26.94	78.70	110	113	90.60	135.90
26.95	27.46	79.90	114	118	91.90	137.90
27.47	28.00	81.10	119	122	93.30	140.00
28.01	28.68	82.30	123	127	94.70	142.10
28.69	29.25	83.60	128	132	96.20	144.30
29.26	29.68	84.70	133	136	97.50	146.30
29.69	30.36	85.90	137	141	98.80	148.20
30.37	30.92	87.20	142	146	100.30	150.50
30.93	31.36	88.40	147	150	101.70	152.60
31.37	32.00	89.50	151	155	103.00	154.50
32.01	32.60	90.80	156	160	104.50	156.80
32.61	33.20	92.00	161	164	105.80	158.70
33.21	33.88	93.20	165	169	107.20	160.80
33.89	34.50	94.40	170	174	108.60	162.90
34.51	35.00	95.60	175	178	110.00	165.00
35.01	35.80	96.80	179	183	111.40	167.10
35.81	36.40	98.00	184	188	112.70	169.10
36.41	37.08	99.30	189	193	114.20	171.30
37.09	37.60	100.50	194	197	115.90	173.40
37.61	38.20	101.60	198	202	116.90	175.40
38.21	39.12	102.90	203	207	118.40	177.60
39.13	39.68	104.10	208	211	119.80	179.70
39.69	40.33	105.20	212	216	121.00	181.50
40.34	41.12	106.50	217	221	122.50	183.80
41.13	41.76	107.70	222	225	123.90	185.90
41.77	42.44	108.90	226	230	125.30	188.00
42.45	43.20	110.10	231	235	126.70	190.10
43.21	43.76	111.40	236	239	128.20	192.30
43.77	44.44	112.60	240	244	129.50	195.20
44.45	44.88	113.70	245	249	130.80	199.20
44.89	45.60	115.00	250	253	132.30	202.40
		116.20	254	258	133.70	206.40
		117.30	259	263	134.90	210.40
		118.60	264	267	136.40	213.60
		119.80	268	272	137.80	217.60
		121.00	273	277	139.20	221.60
		122.20	278	281	140.60	224.80
		123.40	282	286	142.00	228.80
		124.70	287	291	143.50	232.80
		125.80	292	295	144.70	236.00
		127.10	296	300	146.20	240.00
		128.30	301	305	147.60	244.00
		129.40	306	309	148.90	247.20
		130.70	310	314	150.40	251.20
		131.90	315	319	151.70	255.20
		133.00	320	323	153.00	258.40
		134.30	324	328	154.50	262.40
		135.50	329	333	155.90	266.40
		136.80	334	337	157.40	269.60
		137.90	338	342	158.60	273.60
		139.10	343	347	160.00	277.60
		140.40	348	351	161.50	280.80
		141.50	352	356	162.80	284.80
		142.80	357	361	164.30	288.80
		144.00	362	365	165.60	292.00
		145.10	366	370	166.90	296.00
		146.40	371	375	168.40	300.00
		147.60	376	379	169.80	303.20
		148.90	380	384	171.30	307.20
		150.00	385	389	172.50	311.20
		151.20	390	393	173.90	314.40
		152.50	394	398	175.40	318.40

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1967 Act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$153.60	$399	$403	$176.70	$322.40
		154.90	404	407	178.20	325.60
		156.00	408	412	179.40	329.60
		157.10	413	417	180.70	333.60
		158.20	418	421	182.00	336.80
		159.40	422	426	183.40	340.80
		160.50	427	431	184.60	344.80
		161.60	432	436	185.90	348.80
		162.80	437	440	187.30	350.40
		163.90	441	445	188.50	352.40
		165.00	446	450	189.80	354.40
		166.20	451	454	191.20	356.00
		167.30	455	459	192.40	358.00
		168.40	460	464	193.70	360.00
		169.50	465	468	195.00	361.60
		170.70	469	473	196.40	363.60
		171.80	474	478	197.60	365.60
		172.90	479	482	198.90	367.20
		174.10	483	487	200.30	369.20
		175.20	488	492	201.50	371.20
		176.30	493	496	202.80	372.80
		177.50	497	501	204.20	374.80
		178.60	502	506	205.40	376.80
		179.70	507	510	206.70	378.40
		180.80	511	515	208.00	380.40
		182.00	516	520	209.30	382.40
		183.10	521	524	210.60	384.00
		184.20	525	529	211.90	386.00
		185.40	530	534	213.30	388.00
		186.50	535	538	214.50	389.60
		187.60	539	543	215.80	391.60
		188.80	544	548	217.20	393.60
		189.90	549	553	218.40	395.60
		191.00	554	556	219.70	396.80
		192.00	557	560	220.80	398.40
		193.00	561	563	222.00	399.60
		194.00	564	567	223.10	401.20
		195.00	568	570	224.30	402.40
		196.00	571	574	225.40	404.00
		197.00	575	577	226.60	405.20
		198.00	578	581	227.70	406.80
		199.00	582	584	228.90	408.00
		200.00	585	588	230.00	409.60
		201.00	589	591	231.20	410.80
		202.00	592	595	232.30	412.40
		203.00	596	598	233.50	413.60
		204.00	599	602	234.60	415.20
		205.00	603	605	235.80	416.40
		206.00	606	609	236.90	418.00
		207.00	610	612	238.10	419.20
		208.00	613	616	239.20	420.80
		209.00	617	620	240.40	422.40
		210.00	621	623	241.50	423.60
		211.00	624	627	242.70	425.20
		212.00	628	630	243.80	426.40
		213.00	631	634	245.00	428.00
		214.00	635	637	246.10	429.20
		215.00	638	641	247.30	430.80
		216.00	642	644	248.40	432.00
		217.00	645	648	249.60	433.60
		218.00	649	650	250.70	434.40

(b) Average monthly wage.

(1) For the purposes of column III of the table appearing in subsection (a) of this section, an individual's "average monthly wage" shall be the quotient obtained by dividing—

(A) the total of his wages paid in and self-employment income credited to his "benefit computation years" (determined under paragraph (2)), by

(B) the number of months in such years.

(2) (A) The number of an individual's "benefit computation years" shall be equal to the number of elapsed years (determined under paragraph (3) of this subsection), reduced by five; except that the number of an individual's benefit computation years shall in no case be less than two.

(B) An individual's "benefit computation years" shall be those computation base years, equal in number to the number determined under subparagraph (A), for which the total of his wages and self-employment income is the largest.

(C) For purposes of subparagraph (B), "computation base years" include only calendar years in

the period after 1950 and prior to the earlier of the following years—

(i) the year in which occurred (whether by reason of section 402(j)(1) of this title or otherwise) the first month for which the individual was entitled to old-age insurance benefits, or

(ii) the year succeeding the year in which he died.

Any calendar year all of which is included in a period of disability shall not be included as a computation base year.

(3) For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

(A) in the case of a woman, the year in which she died or, if it occurred earlier but after 1960, the year in which she attained age 62,

(B) in the case of a man who has died, the year in which he died or, if it occurred earlier but after 1960, the year in which he attained age 65, or

(C) in the case of a man who has not died, the year occurring after 1960 in which he attained (or would attain) age 65.

For purposes of the preceding sentence, any calendar year any part of which was included in a period of disability shall not be included in such number of calendar years.

(4) The provisions of this subsection shall be applicable only in the case of an individual—

(A) who becomes entitled, after December 1969, to benefits under section 402(a) or section 423 of this title; or

(B) who dies after December 1969 without being entitled to benefits under section 402(a) or section 423 of this title; or

(C) whose primary insurance amount is required to be recomputed under subsection (f)(2) of this section.

(c) Primary insurance amount under 1967 Act.

(1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to December 30, 1969.

(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 402(a) of this title or section 423 of this title before January 1970, or who died before such month.

(d) Primary insurance benefit under 1939 Act.

(1) For purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as follows:

(A) The individual's average monthly wage shall be determined as provided in subsection (b) (but without regard to paragraph (4) thereof) of this section, except that for purposes of paragraph (2) (C) and (3) of such subsection, 1936 shall be used instead of 1950.

(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) of this section, an individual whose total wages prior to 1951 (as defined in subparagraph (C) of this subsection)—

(i) do not exceed $27,000 shall be deemed to have been paid such wages in equal parts in nine calendar years after 1936 and prior to 1951;

(ii) exceed $27,000 and are less than $42,000 shall be deemed to have been paid (I) $3,000 in each of such number of calendar years after 1936 and prior to 1951 as is equal to the integer derived by dividing such total wages by $3,000, and (II) the excess of such total wages over the product of $3,000 times such integer, in an additional calendar year in such period; or

(iii) are at least $42,000 shall be deemed to have been paid $3,000 in each of the fourteen calendar years after 1936 and prior to 1951.

(C) For the purposes of subparagraph (B), "total wages prior to 1951" with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid prior to 1951 to such individual under section 417 of this title, and (iii) compensation under the Railroad Retirement Act of 1937 prior to 1951 creditable to him pursuant to this title.

(D) The individual's primary insurance benefit shall be 45.6 per centum of the first $50 of his average monthly wage as computed under this subsection, plus 11.4 per centum of the next $200 of such average monthly wage.

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;

(B) except as provided in paragraph (3), who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951; and

(C) (i) who becomes entitled to benefits under section 402(a) or 423 of this title after January 2, 1968, or

(ii) who dies after such date without being entitled to benefits under section 402(a) or 423 of this title, or

(iii) whose primary insurance amount is required to be recomputed under section 415(f)(2) of this title.

(3) The provisions of this subsection as in effect prior to January 2, 1968, shall be applicable in the case of an individual—

(A) who attained age 21 after 1936 and prior to 1951, or

(B) who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 420 of this title.

(e) Certain wages and self-employment income not to be counted.

For the purposes of subsections (b) and (d) of this section—

(1) in computing an individual's average monthly wage there shall not be counted the ex-

cess over $3,600 in the case of any calendar year after 1950 and before 1955, the excess over $4,200 in the case of any calendar year after 1954 and before 1959, the excess over $4,800 in the case of any calendar year after 1958 and before 1966, the excess over $6,600 in the case of any calendar year after 1965 and before 1968, and the excess over $7,800 in the case of any calendar year after 1967 of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 412 of this title); and

(2) if an individual's average monthly wage computed under subsection (b) of this section or for the purposes of subsection (d) of this section is not a multiple of $1, it shall be reduced to the next lower multiple of $1.

(f) Recomputation of benefits.

(1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 417 (b) of this title.

(2) If an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulations prescribe, recompute such individual's primary insurance amount with respect to each such year. Such recomputation shall be made as provided in subsection (a)(1) and (3) of this section as though the year with respect to which such recomputation is made is the last year of the period specified in subsection (b)(2)(C) of this section. A recomputation under this paragraph with repect to any year shall be effective—

(A) in the case of an individual who did not die in such year, for monthly benefits beginning with benefits for January of the following year; or

(B) in the case of an individual who died in such year (including any individual whose increase in his primary insurance amount is attributable to compensation which, upon his death, is treated as remuneration for employment under section 405 (o) of this title), for monthly benefits beginning with benefits for the month in which he died.

(3) In the case of any individual who became entitled to old-age insurance benefits in 1952 or in a taxable year which began in 1952 (and without the application of section 402(j)(1) of this title), or who died in 1952 or in a taxable year which began in 1952 but did not become entitled to such benefits prior to 1952, and who had self-employment income for a taxable year which ended within or with 1952 or which began in 1952, then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961) by a person entitled to monthly benefits on the basis of such individual's wages and self-employment income, the Secretary shall recompute such individual's primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section (other than subsection (b)(4)(A) of this section) for computation of such amount, except that (A) the self-employment income closing date shall be the day following the quarter with or within which such taxable year ended, and (B) the self-employment income for any subsequent taxable year shall not be taken into account. Such recomputation shall be effective (A) in the case of an application filed by such individual, for and after the first month in which he became entitled to old-age insurance benefits, and (B) in the case of an application filed by any other person, for and after the month in which such person who filed such application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph pursuant to an application filed after such individual's death shall affect the amount of the lump-sum death payment under subsection (i) of section 402 of this title, and no such recomputation shall render erroneous any such payment certified by the Secretary prior to the effective date of the recomputation.

(4) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.

(5) In the case of a man who became entitled to old-age insurance benefits and died before the month in which he attained age 65, the Secretary shall recompute his primary insurance amount as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he died; except that (i) his computation base years referred to in subsection (b)(2) of this section shall include the year in which he died, and (ii) his elapsed years referred to in subsection (b)(3) of this section shall not include the year in which he died or any year thereafter. Such recomputation of such primary insurance amount shall be effective for and after the month in which he died.

(6) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.

(7)(A) In the case of a man who attains age 65 and who became entitled to old-age insurance benefits before the month in which he attains such age, his primary insurance amount shall be recomputed as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he attained age 65, except that his computation base years referred to in subsection (b)(2) of this section shall include the year in which he attained age 65. Such recomputation shall be effective for and after the month in which he attained age 65.

(B) In the case of a man who became entitled to old-age insurance benefits and died before the month in which he attained age 65, the Secretary shall, if any person is entitled to monthly insurance benefits or a lump-sum death payment on the basis of the wages and self-employment income of the decedent, recompute his primary insurance amount as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he died; except that

(i) his computation base years referred to in subsection (b)(2) of this section shall include the year in which he died, and (ii) his elapsed years referred to in subsection (b)(3) of this section shall not include the year in which he died or any year thereafter. In the case of monthly insurance benefits, such recomputation of a man's primary insurance amount shall be effective for and after the month in which he died.

(g) Rounding of benefits.

The amount of any primary insurance amount and the amount of any monthly benefit computed under section 402 or 423 of this title which (after reduction under section 403(a) of this title and deductions under section 403(b) of this title) is not a multiple of $0.10 shall be raised to the next higher multiple of $0.10.

(h) Election of benefits by Public Health Service Reserve Officers.

(1) Notwithstanding the provisions of subchapter III of chapter 83 of Title 5, remuneration paid for service to which the provisions of section 410(*l*)(1) of this title are applicable and which is performed by an individual as a commissioned officer of the Reserve Corps of the Public Health Service prior to July 1, 1960, shall not be included in computing entitlement to or the amount of any monthly benefit under this subchapter, on the basis of his wages and self-employment income, for any month after June 1960 and prior to the first month with respect to which the Civil Service Commission certifies to the Secretary that, by reason of a waiver filed as provided in paragraph (2), no further annuity will be paid to him, his wife, and his children, or, if he has died, to his widow and children, under subchapter III of chapter 83 of Title 5 on the basis of such service.

(2) In the case of a monthly benefit for a month prior to that in which the individual, on whose wages and self-employment income such benefit is based, dies, the waiver must be filed by such individual; and such waiver shall be irrevocable and shall constitute a waiver on behalf of himself, his wife, and his children. If such individual did not file such a waiver before he died, then in the case of a benefit for the month in which he died or any month thereafter, such waiver must be filed by his widow, if any, and by or on behalf of all his children, if any; and such waivers shall be irrevocable. Such a waiver by a child shall be filed by his legal guardian or guardians, or, in the absence thereof, by the person (or persons) who has the child in his care. (Aug. 14, 1935, ch. 531, title II, § 215, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, §§ 2(a), (b)(1), 3(c), 6(a), (b), 66 Stat. 767, 768, 770, 771, 776; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, §§ 102 (a)–(d), (e) (1)–(4), 104(d), 106(c), 68 Stat. 1062, 1078, 1079; Aug. 1, 1956, ch. 836, title I, §§ 103(c) (4), (5), 109(a), 115(a)–(c), 70 Stat. 818, 830, 832; Aug. 28, 1958, Pub. L. 85–840, title I, §§ 101(a)–(d), 102(d), title II, § 205(m), 72 Stat. 1013, 1020, 1025; Apr. 8, 1960, Pub. L. 86–415, § 7, 74 Stat. 35; Sept. 13, 1960, Pub. L. 86–778, title I, § 103(j)(2)(C), title II, § 211(n), title III, §§ 303(a)–(e), 304(a), 74 Stat. 937, 958, 960, 966; June 30, 1961, Pub. L. 87–64, title I, §§ 101(a), 102(d), 75 Stat. 131, 135; July 30, 1965, Pub. L. 89–97, title III, §§ 301 (a), (b), 302(a)–(d), 303(e), 304(k), 320 (a)(4), 79 Stat. 361, 363–365, 367, 370, 393; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 101 (a), (c), (d), 108 (a)(4), 155(a)(1)–(6), title IV, § 403(b), 81 Stat. 824, 827, 834, 864, 865, 931; Dec. 30, 1969, Pub. L. 91–172, title X, § 1002 (a), (c), (d), 83 Stat. 737, 740.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsec. (d)(1)(C), is classified to section 228a et seq. of Title 45, Railroads.

For amendment of this section by the Social Security Amendments of 1967, referred to in subsec. (d)(3)(B), see 1968 Amendment notes set out under this section.

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–172, § 1002(a), revised the benefits table to increase: the primary insurance amount limits to $64.00–$250.70 for people whose average monthly wage is $76.00 or less for the minimum, and $650.00 for the maximum, the primary insurance amounts of retired workers on the benefit rolls from $48.00 or less to $55.40 at the minimum, and from $168.00 to $218.00 at the maximum, and the family benefits limits to $96.00–434.40 from $82.50–434.40.

Subsec. (b)(4). Pub. L. 91–172, § 1002(c), substituted references to December 1969 for references to January 1968.

Subsec. (c). Pub. L. 91–172, § 1002(d), substituted "December 30, 1969" for "January 2, 1968" in subpar. (1), and "January 1970" for "February 1968" in subpar. (2).

1968—Subsec. (a). Pub. L. 90–248, § 101(a), revised the benefits table to increase: the primary insurance amount limits to $55.00—$218.00 for people whose average monthly wage is $74.00 or less for the minimum and $650.00 for the maximum, the primary insurance amounts of retired workers on the benefit rolls from $48.00 or less to $55.00 at the minimum and from $168.00 to $189.90 at the maximum, and the family benefit limits to $82.50—$434.40 from $66.00—$368.00.

Subsec. (b)(4). Pub. L. 90–248, § 101(c)(1), substituted "January 1968" for "December 1965" in subpar. (A) and (B), deleted", as amended by the Social Security Amendments of 1965;" from end of subpar. (C), and struck out the exception provision that the subsection would not apply to any individual described therein for purposes of monthly benefits for months before January 1966.

Subsec. (b)(5). Pub. L. 90–248, § 101(c)(2), repealed par. (5) which preserved the method in effect before the enactment of the 1965 amendments of computing average monthly earnings for people who become entitled to benefits or a recomputation of benefits before 1966.

Subsec. (c). Pub. L. 90–248, § 101(d), substituted "1965 Act" for "1958 Act, as modified" in subsection catchline and "on the basis of the law in effect prior to the enactment of the Social Security Amendments of 1967" for "as provided in, and subject to the limitations specified in, (A) this section as in effect prior to July 30, 1965 and (B) the applicable provisions of the Social Security Amendments of 1960" in par. (1) and "the month of February 1968, or who died before such month" for "July 30, 1965 or who died before such date" in par. (2).

Subsec. (d)(1). Pub. L. 90–248, § 155(a)(1), substituted "(d)(1) For purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as follows:

"(A) The individual's average monthly wage shall be determined as provided in subsection (b) (but without regard to paragraph (4) thereof) of this section, except that for purposes of paragraph (2)(C) and (3) of such subsection, 1936 shall be used instead of 1950.

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) of this section, an individual whose total wages prior to 1951 (as defined in subparagraph (C) of this subsection)—

"(i) do not exceed $27,000 shall be deemed to have been paid such wages in equal parts in nine calendar years after 1936 and prior to 1951;

"(ii) exceed $27,000 and are less than $42,000 shall be deemed to have been paid (I) $3,000 in each of such number of calendar years after 1936 and prior to 1951 as is equal to the integer derived by dividing such total wages by $3,000, and (II) the excess of such total wages over the product of $3,000 times such integer, in an additional calendar year in such period; or

"(iii) are at least $42,000 shall be deemed to have been paid $3,000 in each of the fourteen calendar years after 1936 and prior to 1951.

"(C) For the purposes of subparagraph (B) of this paragraph, 'total wages prior to 1951' with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid prior to 1951 to such individual under section 417 of this title, and (iii) compensation under the Railroad Retirement Act of 1937 prior to 1951 creditable to him pursuant to this subchapter.

"(D) The individual's primary insurance benefit shall be 45.6 per centum of the first $50 of his average monthly wage as computed under this subsection, plus 11.4 per centum of the next $200 of such average monthly wage." for

"(d)(1) For the purposes of column I of the table appearing in subsection (a) of this section. An individual's primary insurance benefit shall be computed as provided in this subchapter as in effect prior to August 28, 1950, except that—

"(A) In the computation of such benefit, such individual's average monthly wage shall (in lieu of being determined under section 409(f) of this title as in effect prior to August 28, 1950) be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2)(C) and (3) of subsection (b) of this section, 1936, shall be used instead of 1950.

"(B) For purposes of such computation, the date he became entitled to old-age insurance benefits shall be deemed to be the date he became entitled to primary insurance benefits.

"(C) The 1 per centum addition provided for in section 409(e)(2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951, except that any wages paid in any year prior to such year all of which was included in a period of disability shall not be counted.

"(D) The provisions of subsection (e) of this section shall be applicable to such computation."

Subsec. (d)(2)(B), (C). Pub. L. 90–248, § 155(a)(2), eliminated former subpar. (B), redesignated former subpar. (C) as (B), inserted exception phrase at beginning of subpar. (B), and added subpar. (C).

Subsec. (d)(3). Pub. L. 90–248, § 155(a)(3), substituted.

"(3) The provisions of this subsection as in effect prior to January 2, 1968 shall be applicable in the case of an individual—

"(A) who attained age 21 after 1936 and prior to 1951, or

"(B) who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 420 of this title." for

"(3) The provisions of this subsection as in effect prior to September 13, 1960 shall be applicable in the case of an individual who meets the requirements of subsection (b)(5) of this section (as in effect after September 13, 1965)."

Subsec. (e)(1). Pub. L. 90–248, § 108(a)(4), substituted "the excess over $6,600 in the case of any calendar year after 1965 and before 1968, and the excess over $7,800 in the case of any calendar year after 1967" for "and the excess over $6,600 in the case of any calendar year after 1965".

Subsec. (f)(2). Pub. L. 90–248, § 155(a)(4), (5), eliminated former subpars. (A)–(D) and text preceding (A) by substituting provisions that if an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary is to recompute his primary insurance amount with respect to each such year, and that such recomputation shall be made as provided in subsec.(a)(1) and (3) as though the year with respect to which such recomputation is made is the last year of the period specified in subsec. (b)(2)(C) for former provisions for a recomputation with respect to each year after Dec. 31, 1964, and for any part of which an individual was entitled to old-age insurance benefits, that such recomputation was to be made as provided in subsec. (a)(1) and (3) if such year was either the year in which he became entitled to such old-age insurance benefits or the preceding year or as provided in subsec. (a)(1) in any other case, and that in all cases such recomputation was to be made as though the year with respect to which it was to be made was the last year of the period specified in subsec. (b)(2)(C); and redesignated former subpars. (E), (F) as (A), (B).

Subsec. (f)(5). Pub. L. 90–248, § 155(a)(6) added par. (5).

Subsec. (h)(1). Pub. L. 90–248, § 403(b), substituted "subchapter III of chapter 83 of Title 5" for "the Civil Service Retirement Act" in two instances.

1965—Subsec. (a). Pub. L. 89–97, § 301(a), revised the benefits table to increase: the primary insurance amount limits to $44—$168 for people whose average monthly wage is $67 or less for the minimum and $550 for the maximum from $40—$127 for people whose average monthly wage is $67 or less for the minimum and $400 for the maximum (representing an increase of 7-percent for average monthly wages of $400 or less with minimum increase of $4); the primary insurance amounts of retired workers on the benefit rolls from $40 to $44 at the minimum and from $127 to $135.90 at the maximum; and the family benefit limits to $66—$368 from $60—$254 (determined on basis of new formula and representing minimum increase of $6).

Subsec. (a)(4). Pub. L. 89–97, §§ 303(e), 304(k), substituted "In the case of an individual who was entitled to a disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65," for:

"In the case of—

"(A) a woman who was entitled to a disability insurance benefit for the month before the month in which she died or became entitled to old-age insurance benefits, or

"(B) a man who was entitled to a disability insurance benefit for the month before the month in which he died or attained age 65," and

"the primary insurance amount upon which such disability insurance benefit is based" for "such disability insurance benefit", respectively.

Subsec. (b)(2)(C). Pub. L. 89–97, § 302(a)(1), excluded from an insured individual's computation base years the year in which he became entitled to benefits and included in his computation base years (for purposes of survivors' benefits) the year in which he died to make an individual's computation base years the calendar years occurring after 1950 and up to the year in which his first month of entitlement to a benefit occurred or the year after the year in which he died.

Subsec. (b)(3) (A)–(C). Pub. L. 89–97, § 302(a)(2), substituted in: clause (A) ", if it occurred earlier but after 1960, the year in which she attained age 62," for "(if earlier) the first year after 1960 in which she both was fully insured and had attained age 62."; clause (B) ", if it occurred earlier but after 1960, the year in which he attained age 65" for "(if earlier) the first year after 1960 in which he both was fully insured and had attained age 65"; and clause (C) "the year occurring after 1960 in which he attained (or would attain) age 65" for "the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured".

Subsec. (b)(4). Pub. L. 89–97, § 302(a)(3), substituted "The provisions of this subsection shall be applicable only in the case of an individual—

"(A) who becomes entitled, after December 1965, to benefits under section 402(a) or section 423 of this title; or

"(B) who dies after December 1965 without being entitled to benefits under section 402(a) or section 423 of this title; or

"(C) whose primary insurance amount is required to be recomputed under subsection (f)(2) of this section, as amended by the Social Security Amendments of 1965;

except that it shall not apply to any such individual for purposes of monthly benefits for months before January 1966." for

"The provisions of this subsection shall be applicable only in the case of an individual with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage, and—

"(A) who becomes entitled to benefits after December 1960 under section [section 402(a) or section 423 of this title]; or

"(B) who dies after December 1960 without being entitled to benefits under section [section 402(a) or section 423 of this title]; or

"(C) who files an application for a recomputation under subsection (f)(2)(A) of this section after December 1960 and is (or would, but for the provisions of subsection (f)(6) of this section, be) entitled to have his primary insurance amount recomputed under subsection (f)(2)(A) of this section; or

"(D) who dies after December 1960 and whose survivors are (or would, but for the provisions of subsection (f)(6) of this section, be) entitled to a recomputation of his primary insurance amount under subsection (f)(4) of this section."

Subsec. (b)(5). Pub. L. 89–97, § 302(a)(3), substituted "For the purpose of column III of the table appearing in subsection (a) of this section, the provisions of this subsection, as in effect prior to July 30, 1965, shall apply—

"(A) in the case of an individual to whom the provisions of this subsection are not made applicable by paragraph (4), but who, on or after July 30, 1965 and prior to 1966, met the requirements of this paragraph or paragraph (4), as in effect prior to July 30, 1965, and

"(B) with respect to monthly benefits for months before January 1966, in the case of an individual to whom the provisions of this subsection are made applicable by paragraph (4)", for

"In the case of any individual—

"(A) to whom the provisions of this subsection are not made applicable by paragraph (4), but

"(B)(i) prior to 1961, met the requirements of this paragraph (including subparagraph (E) thereof) as in effect prior to the enactment of the Social Security Amendments of 1960, or (ii) after 1960, meets the conditions of subparagraph (E) of this paragraph as in effect prior to such enactment,

then the provisions of this subsection as in effect prior to such enactment shall apply to such individual for the purposes of column III of the table appearing in subsection (a) of this section."

Subsec. (c). Pub. L. 89–97, § 301(b), substituted in par. (1)(A) "prior to the enactment of the Social Security Amendments of 1965" and executed in the Code "prior to July 30, 1965" for "prior to the enactment of the Social Security Amendments of 1958" and executed in the Code "prior to August 28, 1958"; in par. (1)(B) "Social Security Amendments of 1960" for "Social Security Amendments of 1954"; in par. (2), formerly designated (2)(A), "before July 30, 1965 or who died before such date" for "or died prior to January 1959"; and deleted par. (2)(B) making the provisions of the subsection applicable only in the case of an individual "to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable."

Subsec. (d)(1)(A). Pub. L. 89–97, § 302(b)(1), substituted "(2)(C) and (3)" for "(2)(C)(i) and (3)(A)(i)", "1936" for "December 31, 1936," and "1950" for "December 31, 1950".

Subsec. (d)(3). Pub. L. 89–97, § 302(b)(2), substituted "1965" for "1960" in two instances and struck out at the end of the par. "but without regard to whether such individual has six quarters of coverage after 1950".

Subsec. (e)(1). Pub. L. 89–97, § 320(a)(4), substituted "the excess over $4,800 in the case of any calendar year after 1958 and before 1966, and the excess over $6,600 in the case of any calendar year after 1965" for "and the excess over $4,800 in the case of any calendar year after 1958".

Subsec. (e)(3). Pub. L. 89–97, § 302(c), struck out par. (3) which had provided that for the purposes of subsecs. (b) and (d) of this section, if an individual had self-employment income in a taxable year which began prior to the calendar year in which he became entitled to old-age insurance benefits and ended after the last day of the month preceding the month in which he became so entitled, his self-employment income in such taxable year should not be counted in determining his benefit computation years, except as provided in subsection (f)(3)(C) of this section.

Subsec. (f)(2). Pub. L. 89–97, § 302(d)(1), substituted provisions for annual automatic recomputation of benefits, taking into account any earnings the person had in or after the year in which he became entitled to benefits, and effective in the case of a living beneficiary with January of the year following the year in which the earnings were received and in death cases for survivors' benefits beginning with the month of death for former provisions which required an application for the recomputation to include earnings in a year after entitlement and that the person have six quarters of coverage after 1950 to qualify for the recomputation and was not available unless the person had earnings of more than $1,200 for the year.

Subsec. (f)(3). Pub. L. 89–97, § 302(d)(2), redesignated former par. (5) as (3) and repealed former par. (3) which provided for a recomputation of benefits to include earnings in the year of entitlement to benefits or in the year in which an individual's benefits were recomputed on account of additional earnings and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

Subsec. (f)(4). Pub. L. 89–97, § 302(d)(2), redesignated former par. (6) as (4) and repealed former par. (4) which provided for a recomputation of benefits for the purpose of paying benefits to survivors of an individual who died after 1960 and who had been entitled to old-age insurance benefits and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

Subsec. (f)(5), (6). Pub. L. 89–97, § 302(d)(2) redesignated former pars. (5) and (6) as (3) and (4), respectively.

Subsec. (f)(7). Pub. L. 89–97, § 302(d)(2), repealed former par. (7) which provided for recomputation at age 65 of the benefits of an individual who became entitled to benefits before that age and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

1961—Subsec. (a). Pub. L. 87–64, §§ 101(a), 102(d)(1), increased the minimum primary insurance amount from $33 to $40, and the minimum family benefit from $53 to $60, and in the case of a man, limited the provisions which permit the primary insurance amount to be equal to the disability insurance benefit for the month before the month in which the man became entitled to old-age insurance benefits only if the man first became entitled to old-age insurance benefits at age 65.

Subsec. (b)(3). Pub. L. 87–64, § 102(d)(2), substituted "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

"(A) in the case of a woman, the year in which she died or (if earlier) the first year after 1960 in which she both was fully insured and had attained age 62,

"(B) in the case of a man who has died, the year in which he died or (if earlier) the first year after 1960 in which he both was fully insured and had attained age 65, or

"(C) in the case of a man who has not died, the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured"

for the following provisions: "For the purposes of paragraph (2), an individual's 'elapsed years' shall be the number of calendar years—

"(A) after (i) December 31, 1950, or (ii) if later, December 31 of the year in which he attained the age of twenty-one, and

"(B) prior to (i) the year in which he died, or (ii) if earlier, the first year after December 31, 1960, in which he both was fully insured and had attained retirement age."

Subsec. (f)(7). Pub. L. 87–64, § 102(d)(3), added subsec. (f)(7).

1960—Subsec. (b)(1). Pub. L. 86–778, § 303(a), substituted provisions defining the term "average monthly wage" as the quotient obtained by dividing (A) the total of an individual's wages paid in and self-employment income credited to his benefit computation years, by (B) the number of months in such years, for provisions which defined the term as the quotient obtained by dividing the total of his wages and self-employment income after his starting date and prior to his closing date by the number of months elapsing after such starting date and prior to such closing date, excluding the months in any year prior to the year in which the individual attained the age of 22 if less than two quarters of such prior years were quarters of coverage and the months in any year any part of which was included in a period of disability except the months in the year in which such period of disability began if their inclusion will result in a higher primary insurance amount.

Subsec. (b)(2). Pub. L. 86–778, § 303(a), substituted provisions relating to benefit computation years and to computation base years for provisions which defined an individual's starting date as December 31, 1950, or if later, the last day of the year in which he attains the age of 21, whichever results in the higher primary insurance amount.

Subsec. (b)(3). Pub. L. 86–778, § 303(a), substituted provisions defining an individual's elapsed years for provisions which defined an individual's closing date as the first day of the year in which he died or became entitled to old-age insurance benefits, whichever first occurred, or the first day of the first year in which he both was fully insured and had attained retirement age, whichever results in the higher primary insurance amount.

Subsec. (b)(4). Pub. L. 86–778, § 303(a), substituted provisions prescribing the applicability of subsec. (f) for provisions which required the Secretary to determine the five or fewer calendar years after an individual's starting date and prior to his closing date which, if the months of such years and his wages and self-employment income for such years were excluded in computing his average monthly wage, would produce the highest primary insurance amount, and which required exclusion of such months and such wages and self-employment income for purposes of computing an individual's average monthly wage.

Subsec. (b)(5). Pub. L. 86–778, § 303(a), substituted provisions making subsec. (f) applicable in the case of an individual to whom the provisions of subsec. (f) are not made applicable by par. (4) but prior to 1961, met the requirements of this paragraph as in effect prior to Sept. 13, 1960, or, after 1960, meets the conditions of subpar. (E) of this paragraph as in effect prior to Sept. 13, 1960, for provisions which prescribed the applicability of subsec. (f) of this section. Former provisions of subsec. (b)(5) are now covered by subsec. (b)(4) of this section.

Subsec. (c)(2)(B). Pub. L. 86–778, § 303(b), substituted "to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable" for "to whom the provisions of paragraph (5) of subsection (b) of this section are not applicable."

Subsec. (d)(1)(A). Pub. L. 86–778, § 303(c)(1), substituted "be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2)(C)(i) and (3)(A)(i) of subsection (b) of this section, December 31, 1936, shall be used instead of December 31, 1950" for "be determined as provided in subsection (b) of this section (but without regard to paragraph (5) thereof), except that his starting date shall be December 31, 1936."

Subsec. (d)(1)(C). Pub. L. 86–778, § 303(c)(2), substituted "all of which was included" for "any part of which was included", and eliminated provisions which required the wages paid in the year in which the period of disability began to be counted if the counting of such wages would result in a higher primary insurance amount.

Subsec. (d)(2)(B). Pub. L. 86–778, § 303(c)(3), substituted "paragraph (4) of subsection (b) of this section" for paragraph (5) of subsection (b) of this section."

Subsec. (d)(3). Pub. L. 86–778, § 303(c)(4), added subsec. (d)(3).

Subsec. (e)(3). Pub. L. 86–778, § 303(d)(1), substituted "if an individual has self-employment income in a taxable year which begins prior to the calendar year in which he becomes entitled to old-age insurance benefits and ends after the last day of the month preceding the month in which he becomes so entitled, his self-employment income in such taxable year shall not be counted in determining his benefit computation years" for "if an individual's closing date is determined under paragraph (3)(A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he becomes entitled to old-age insurance benefits, there shall not be counted, in determining his average monthly wage, his self-employment income in such taxable year."

Subsec. (e)(4). Pub. L. 86–778, § 303(d)(2), eliminated former subsec. (e)(4), which prohibited, in computing an individual's average monthly wage, the counting of any wages paid such individual in any year any part of which was included in a period of disability, or any self-employment income of such individual credited pursuant to section 412 of this title to any year any part of which was included in a period of disability, unless the months of such year are included as elapsed months pursuant to subsec. (b)(1)(B) of this section.

Subsec. (f)(2)(A). Pub. L. 86–778, § 303(e)(1), substituted "1960" for "1954" in the opening provisions, and "filed such application after such calendar year" for "filed such application no earlier than six months after such calendar year" in cl. (iii).

Subsec. (f)(2)(B). Pub. L. 86–778, § 303(e)(2), substituted provisions requiring a recomputation pursuant to subpar. (A) to be made only as provided in subsec. (a)(1) of this section, if the provisions of subsec. (b) of this section, as amended by Pub. L. 86–778, were applicable to the last previous computation of the individual's primary insurance amount, or as provided in subsec. (a) (1) and (3) of this section in all other cases for provisions which required a recomputation to be made only as provided in subsec. (a) of this section, inserted provisions requiring the computation base years, if cl. (i) of this subparagraph is applicable to such recomputation, to include only calendar years occurring prior to the year in which he filed his application for such recomputation, and eliminated provisions which prescribed the method of making the recomputation if subsec. (b)(4) of this section were applicable to the previous computation.

Subsec. (f)(3)(A). Pub. L. 86–778, § 303(e)(3), substituted "December 1960" for "August 1954" in two instances, eliminated provisions which related to applications by individuals whose primary insurance amount was recomputed under section 102(e)(5) or 102(f)(2)(B) of the Social Security Amendments of 1954, and substituted "except that such individual's computation base years referred to in subsection (b)(2) of this secton shall include the calendar year referred to in the preceding sentence" for "except that his closing date for purposes of subsection (b) of this section shall be the first day of the year following the year in which he became entitled to old-age insurance benefits or in which he filed his application for the last recomputation (to which he was entitled) of his primary insurance amount under any provision of law referred to in clause (ii) or (iii) of the preceding sentence, whichever is later."

Subsec. (f)(3)(B). Pub. L. 86–778, § 303(e)(3), substituted "December 1960" for "August 1954" in three instances, eliminated provisions which related to individuals whcse primary insurance amount was recomputed under section 102(e)(5) or section 102 (f)(2) of the Social Security Amendments of 1954, and individuals with

respect to whom the last previous computation or recomputation of their primary insurance amount was based upon a closing date determined under subpar. (A) or (B) of subsec. (b)(3) of this section, and substituted "except that such individual's computation base years referred to in subsection (b)(2) of this section shall include the calendar year in which he died in the case of an individual who was not entitled to old-age insurance benefits at the time of death or whose primary insurance amount was recomputed under paragraph (4) of this subsection, or in all other cases, the calendar year in which he filed his application for the last previous computation of his primary insurance amount" for "except that his closing date for purposes of subsection (b) of this section shall be the day following the year of death in case he died without becoming entitled to old-age insurance benefits, or in case he was entitled to old-age insurance benefits, the day following the year in which was filed the application for the last previous computation of his primary insurance amount or in which the individual died, whichever first occurred."

Subsec. (f)(3)(C). Pub. L. 86–778, § 303(e)(3), substituted "In the case of an individual who becomes entitled to old-age insurance benefits in a calendar year after 1960, if such individual has self-employment income in a taxable year which begins prior to such calendar year and ends after the last day of the month preceding the month in which he became so entitled, the Secretary shall recompute such individual's primary insurance amount after the close of such taxable year and shall take into account in determining the individual's benefit computation years only such self-employment income in such taxable year as is credited, pursuant to section 412 of this title, to the year preceding the year in which he became so entitled" for "If an individual's closing date is determined under paragraph (3)(A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he became entitled to old-age insurance benefits, the Secretary shall recompute his primary insurance amount after the close of such taxable year, taking into account only such self-employment income in such taxable year as is, pursuant to section 412 of this title, allocated to calendar quarters prior to such closing date."

Subsec. (f)(4). Pub. L. 86–778, § 303(e)(4), eliminated words "(without the application of clause (iii) thereof)" following "paragraph (2)(A)" in cl. (A), eliminated provisions from the second sentence which required, if the recomputation is permitted by subpar. (A), to include in such recomputation any compensation (described in section 405(*o*) of this title) paid to him prior to the closing date which would have been applicable under such paragraph, and substituted "which were considered in the last previous computation of his primary insurance amount and the compensation (described in section 405(*o*) of this title) paid to him in the years in which such wages were paid or to which such self-employment income was credited" for "which were taken into account in the last previous computation of his primary insurance amount and the compensation (described in section 405(*o*) of this title) paid to him prior to the closing date applicable to such computation" in the third sentence.

Subsec. (f)(5). Pub. L. 86–778, § 304(a), substituted "then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961)" for "then upon application filed after the close of such taxable year by such individual (or if he died without filing such application)."

Subsec. (g). Pub. L. 86–778, § 211(n), substituted "section 403(a) of this title and deductions under section 403(b) of this title."

Subsec. (h). Pub. L. 86–778, § 103(j)(2)(C), substituted "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title", in par. (1).

Pub. L. 86–415 added subsec. (h).

1958—Subsec. (a). Pub. L. 85–840, § 101(a), amended subsec. (a) generally, and, among other changes, substituted a new method for computing the primary insurance amount of an individual for provisions which established the primary insurance amount as either 55% of the first $110 of an individual's average monthly wage, plus 20% of the next $240, or the amount determined by use of the conversion table under former subsec. (c) of this section, whichever was larger.

Subsec. (b)(1). Pub. L. 85–840, § 101(b)(1), substituted "for the purposes of column III of the table appearing in subsection (a) of this section, an" for "An".

Subsec. (b)(5). Public L. 85–840, § 101(b)(2), added par. (5).

Subsec. (c). Pub. L. 85–840, § 101(c), amended subsec. (c) generally, and, among other changes, substituted provisions for computation of the primary insurance amount of an individual under the 1954 Act for provisions which related to determinations made by use of the conversion table.

Subsec. (d) Pub. L. 85–840, § 101(d), substituted provisions for computation of the primary insurance benefit under the 1939 Act for provisions which related to determination of the primary insurance benefit and primary insurance amount for purposes of the conversion table in former subsec. (c) of this section.

Subsec. (e). Pub. L. 85–840, § 102(d), substituted "(d) of this section" for "(d)(4) of this section" in the opening provisions and in cl. (2), and inserted "and before 1959, and the excess over $4,800 in the case of any calendar year after 1958" following "after 1954", in cl. (1).

Subsec. (g). Pub. L. 85–840, § 205(m), eliminated provisions which related to reduction under section 424 of this title.

1956—Subsec. (a)(3). Act Aug. 1, 1956, § 103(c)(4), added par. (3).

Subsec. (b)(1). Act Aug. 1, 1956, § 115(a), excluded from the computation of an individual's average wage the months in any year any part of which was included in a period of disability, except the months in any year in which a period of disability began if their inclusion would result in a higher primary insurance amount.

Subsec. (b)(4). Act Aug. 1, 1956, § 109(a), substituted "five" for "four", and eliminated provisions which required the maximum number of calendar years determined under this clause to be five in the case of any individual who has not less than 20 quarters of coverage.

Subsec. (d)(5). Act Aug. 1, 1956, § 115(b), excluded from the computation all quarters in any year prior to 1951 any part of which was included in a period of disability, except the quarters in the year in which a period of disability began if the inclusion of such quarters would result in a higher primary insurance amount.

Subsec. (e)(4). Act Aug. 1, 1956, § 115(c), excluded any wages paid to an individual in any year any part of which was included in a period of disability, and any self-employment income credited to such year unless the months of such year are included as elapsed months.

Subsec. (g). Act Aug. 1, 1956, § 103(c)(5), inserted references to sections 423 and 424 of this title.

1954—Subsec. (a). Act Sept. 1, 1954, § 102(a), provided a new benefit formula, for computing primary insurance amount for certain individuals, of 55 percent of the first $110 of average monthly wage plus 20 percent of the next $240 and provided that other individuals have their primary insurance amount computed under subsection (c) of this section.

Subsec. (b). Act Sept. 1, 1954, § 102(b), provided standard end-of-the-year starting and beginning-of-the-year closing dates, applicable to both wage earners and self-employed individuals, for computation of the average monthly wage, and provided for the exclusion of up to 5 years in which earnings were lowest (or non-existent) from the average monthly wage computation.

Subsec. (b)(1). Act Sept. 1, 1954, § 106(c)(1), inserted after "quarters of coverage" the words "and any month in any quarter any part of which was included in a period of disability (as defined in section 416(i) of this title) unless such quarter was a quarter of coverage."

Subsec. (c). Act Sept. 1, 1954, § 102(c), provided a new conversion table with increased benefits for individuals already on the rolls and computed the primary insurance amount of certain individuals who come on the rolls after the enactment of the act.

Subsec. (d). Act Sept. 1, 1954, § 102(d), added provisions for computation of a primary insurance amount for purposes of the conversion table.

Subsec. (d)(5). Act Sept. 1, 1954, § 106(c)(2), added subsec. (d)(5). Former subsec. (d)(5), which was added by act July 18, 1952, § 3(c)(3), ceased to be in effect at the close of June 30, 1953. See termination date note set out under section 413 of this title.

Subsec. (d)(6). Act Sept. 1, 1954, § 102(d)(4), added subsec. (d)(6).

Subsec. (e). Act Sept. 1, 1954, § 104 (d), provided that earnings up to $4,200, in any calendar year after 1954, shall be used in the computation of an individual's average monthly wage.

Subsec. (e)(3). Act Sept. 1, 1954, § 102 (e)(1), added subsec. (e)(3).

Subsec. (e)(4). Act Sept. 1, 1954, § 106 (c)(3), added subsec. (e)(4).

Subsec. (f)(2). Act Sept. 1, 1954, § 102(e)(2), substituted a new test for determining eligibility for a recomputation to take into account additional earnings after entitlement.

Subsec. (f)(3) (A), (B). Act Sept. 1, 1954, § 102(e)(3)(A), amended provisions generally.

Subsec. (f)(3)(C). Act Sept. 1, 1954, § 102(e)(3)(B), added subsec. (f)(3(C).

Subsec. (f)(4). Act Sept. 1, 1954, § 102(e)(4), provided for the recomputation of the primary insurance on the death after 1954 of an old-age insurance beneficiary, if any person is entitled to monthly survivors benefits or to a lump-sum death payment on the basis of his wages and self-employment income.

1952—Subsec. (a)(1). Act July 18, 1952, § 2(b)(1), provided a new benefit formula for the computation of benefits based entirely on wages paid and self-employment income derived after 1950 of 55 percent of the first $100 of average monthly wage and 15 percent of next $200 and increased the primary insurance amount.

Subsec. (b)(1). Act July 18, 1952, § 3(c)(1), added "and any month * * * quarter of coverage" following "not a quarter of coverage."

Subsec. (b)(4). Act July 18, 1952, § 3(c)(2), added provisions of subparagraphs (B) and (C).

Subsec. (c)(1). Act July 18, 1952, § 2(a)(1), inserted a new conversion table and increased amounts.

Subsec. (c)(2). Act July 18, 1952, § 2(a)(2), provided that individuals, whose primary insurance amounts are governed by regulations, shall have the same increase as is provided for individuals governed by the new conversion table.

Subsec. (c)(4). Act July 18, 1952, § 2(a)(3), added subsec. (c)(4).

Subsec. (d)(5). Act July 18, 1952, § 3(c)(3), added subsec. (d)(5).

Subsec. (f)(2). Act July 18, 1952, § 6(a), provided that upon application an individual will have his benefit recomputed by the new formula prescribed in subsec. (a)(1) of this section under certain conditions.

Subsec. (f)(5). Act July 18, 1952, § 6(b), added subsec (f)(5). Former subsec. (f)(5) redesignated (f)(6).

Subsec. (f)(6). Act July 18, 1952, § 6(b), redesignated former par. (5) as (6).

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1002(e) of Pub. L. 91–172 provided that: "The amendments made by this section [amending this section and section 403(a)(2) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1969."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 101(e) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsec. (a), (b)(4) and (5), and (c) of this section and to section 403(a)(2) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968 and with respect to lump-sum death payments under such title [this subchapter] in the case of deaths occurring after January 1968."

Amendment of subsec. (e)(1) of this section by section 108(a)(4) of Pub. L. 90–248 applicable only with respect to calendar years after 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 301(d) of Pub. L. 89–97 provided that: "The amendments made by subsections (a), (b), and (c) of this section [to subsecs. (a) and (c) of this section and section 403(a) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1964 and with respect to lump-sum death payments under such title [this subchapter] in the case of deaths occurring in or after the month in which this Act is enacted [July 1965]."

Section 302(d)(2) of Pub. L. 89–97 provided in part that the repeal of former pars. (3), (4), and (7) of subsec. (f) and the redesignation of former pars. (5) and (6) as (3) and (4) of such subsec. (f) shall be effective Jan. 2, 1966.

Section 302(f) (1)–(5) of Pub. L. 89–97 provided as follows:

"(1) The amendments made by subsection (c) [repealing subsec. (e)(3) of this section] shall apply only to individuals who become entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] after 1965.

"(2) Any individual who would, upon filing an application prior to January 2, 1966, be entitled to a recomputation of his monthly benefit amount for purposes of title II of the Social Security Act [this subchapter] shall be deemed to have filed such application on the earliest date on which such application could have been filed, or on the day on which this Act is enacted [July 30, 1965], whichever is the later.

"(3) In the case of an individual who died after 1960 and prior to 1966 and who was entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] at the time of his death, the provisions of sections 215(f)(3)(B) and 215(f)(4) of such Act [former subsec. (f)(3)(B) and (f)(4) of this section] as in effect before the enactment of this Act [July 30, 1965] shall apply.

"(4) In the case of a man who attains age 65 prior to 1966, or dies before such year, the provisions of section 215(f)(7) of the Social Security Act [former subsec. (f)(7) of this section] as in effect before the enactment of this Act [July 30, 1965] shall apply.

"(5) The amendments made by subsection (e) of this section [to section 423(a)(2) of this title] shall apply in the case of individuals who become entitled to disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] after December 1965."

Section 303(f)(2) of Pub. L. 89–97 provided that: "The amendment made by subsection (e) [to subsec. (a)(4) of this section] shall apply in the case of the primary insurance amounts of individuals who attain age 65 after the date of enactment of this Act [July 30, 1965]."

Amendment of subsec. (a)(4) by section 304 of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89–97, set out as a note under section 402 of this title.

Amendment of section by section 320 of Pub. L. 89–97 applicable with respect to calendar years after 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of Title 26.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 101(b) of Pub. L. 87–64 provided that: "The amendment made by subsection (a) [amending subsec. (a) of this section to increase the minimum primary insurance amount and the minimum family benefit] shall apply only in the case of monthly insurance benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note under section 402 of this title], and in the case of lump-sum death payments under such title [this subchapter] with respect to deaths on or after such effective date."

Amendment of subsecs. (a)(4) and (b)(3) of this section by Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this

subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 303(d)(1) of Pub. L. 86-778 provided in part that the amendment of subsec. (e)(3) of this section by Pub. L. 86-778 shall be effective with respect to individuals who become entitled to benefits under section 402(a) of this title after 1960.

Section 303(d)(2) of Pub. L. 86-778 provided in part that the elimination of par. (4) of subsec. (e) of this section shall be effective with respect to individuals who meet any of the subparagraphs of paragraph (4) of subsec. (b) of this section, as amended by Pub. L. 86-778.

Section 303(e)(1) of Pub. L. 86-778 provided in part that the amendment of subsec. (f)(2)(A) of this section by Pub. L. 86-778, which substituted "1960" for "1954" in the opening provisions, and "filed such application after such calendar year" for "filed such application no earlier than six months after such calendar year" in cl. (iii), shall be effective with respect to applications for recomputation under subsec. (f)(2) of this section filed after 1960.

Section 303(e)(4)(B) of Pub. L. 86-778 provided in part that the amendment of subsec. (f)(4) of this section by Pub. L. 86-778, which eliminated words "(without the application of clause (iii) thereof)" following "paragraph (2)(A)" in cl. (A), shall be effective in the case of deaths occurring on or after Sept. 13, 1960.

Amendment of subsec. (g) of this section by Pub. L. 86-778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86-778, see note under section 403 of this title.

Amendment of subsec. (h)(1) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 101 (g) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (a), (b)(1), (b)(5), (c) and (d) of this section, and sections 402 (m) and 403 (a) of this title] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after December 1958, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month."

Amendment of subsec. (g) of this section by section 205(m) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 115 (d) of act Aug. 1, 1956, provided that: "The amendments made by this section [to subsecs. (b)(1), (d)(5), and (e)(4) of this section] shall apply in the case of an individual (1) who becomes entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to benefits under section 202 (a) of such Act [section 402 (a) of this title] after the date of enactment of this Act [August 1, 1956], or (2) who dies without becoming entitled to benefits under such section 202 (a) [section 402 (a) of this title] and on the basis of whose wages and self-employment income an application for benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] is filed after the date of enactment of this Act [August 1, 1956], or (3) who becomes entitled to benefits under section 223 of such Act [section 423 of this title], or (4) who files, after the date of enactment of this Act [August 1, 1956], an application for a disability determination which is accepted as an application for purposes of section 216 (i) of such Act [section 416 (i) of this title]."

Section 109 (b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [to subsec. (b)(4) of this section] shall apply in the case of monthly benefits under section 202 of the Social Security Act [section 402 of this title], and the lump-sum death payment under such section, based on the wages and self-employment income of an individual—

"(1) who becomes entitled to benefits under subsection (a) of such section on the basis of an application filed on or after the date of enactment of this Act [August 1, 1956]; or

"(2) who is (but for the provisions of subsection (f)(6) of section 215 of the Social Security Act [section 415 (f)(6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f)(2)(A) of such section 215 [section 415 (f)(2)(A) of this title] based on an application filed on or after the date of enactment of this Act [August 1, 1956]; or

"(3) who dies without becoming entitled to benefits under subsection (a) of such section 202 [section 402 (a) of this title] and no individual was entitled to survivor's benefits and no lump-sum death payment was payable under such section 202 [section 402 of this title] on the basis of an application filed prior to such date of enactment [August 1, 1956]; or

"(4) who dies on or after such date of enactment [August 1, 1956] and whose survivors are (but for the provisions of subsection (f)(6) of such section 215 [section 415 (f)(6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f)(4)(A) of such section 215 [section 415 (f)(4)(A) of this title]; or

"(5) who dies prior to such date of enactment [August 1, 1956] and (A) whose survivors are (but for the provisions of subsection (f)(6) of such section 215 [section 415 (f)(6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f)(4)(A) of such section 215 [section 415 (f)(4)(A) of this title], and (B) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits under such section 202 [section 402 of this title], and no lump-sum death payment was payable under such section, on the basis of an application filed prior to such date of enactment and no individual was entitled to such a benefit, without the filing of an application for the month in which this Act is enacted [August, 1956] or any month prior thereto."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 102 (f) of act Sept. 1, 1954, as amended by Pub. L. 86-778, title II, § 303(k), Sept. 13, 1960, 74 Stat. 966; Pub. L. 89-97, title III § 302(f)(7), July 30, 1965, 79 Stat. 366, provided that:

"(1) The amendments [to subsecs. (a), (c), and (d) and to section 403 (a) of this title] made by the preceding subsections, other than subsection (b) and paragraphs (1), (2), (3), and (4) of subsection (e), shall (subject to the provisions of paragraph (2) and notwithstanding the provisions of section 215 (f)(1) of the Social Security Act [subsec. (f)(1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for months after, August 1954.

"(2) (A) The amendment [to subsec. (b)(4)] made by subsection (b)(2) shall be applicable only in the case of monthly benefits for months after August 1954, and the lump-sum death payment in the case of death after August 1954, based on the wages and self-employment income of an individual (i) who does not become eligible for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] until after August 1954, or (ii) who dies after August 1954, and without becoming eligible for benefits under such section 202(a) [section 402(a) of this title], or (iii) who is or has been entitled to have his primary insurance amount recomputed under section 215(f)(2) of the Social Security Act, as amended by subsection (e)(2) of this section [subsec. (f)(2) of this section], or under subsection (e)(5)(B) of this section [set out as a note under this section], or (iv) with respect to whom not less than six of the quarters elapsing after June 1953 are quarters of coverage (as defined in such Act), or (v) who files an application for a disability determination which is accepted as an application for purposes of section 216(i) of such Act [section 416(i) of this title], or (vi) who dies after August 1954, and whose survivors are (or would, but for the provisions of section 215(f)(6) of such Act [subsec. (f)(6) of this section], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act, as amended by this Act

[subsec. (f)(4)(A) of this section]. For purposes of the preceding sentence an individual shall be deemed eligible for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] for any month if he was, or would upon filing application therefor in such month have been, entitled to such benefits for such month.

"(B) [Repealed. Pub. L. 89-97, title III, § 302(f)(7), July 30, 1965, 79 Stat. 366, eff. Jan. 2, 1966. Subpar. (B) provided for a dropout recomputation based on the acquisition of six quarters of coverage after June 1953.]

"(3) The amendments [to subsecs. (b) (1)-(3), (e), (f) (3) (B)] made by subsections (b) (1), (e) (1), and (e) (3) (B) shall be applicable only in the case of monthly benefits based on the wages and self-employment income of an individual who does not become entitled to old-age insurance benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] until after August 1954, or who dies after August 1954 without becoming entitled to such benefits, or who files an application after August 1954 and is entitled to a recomputation under paragraph (2) or (4) of section 215 (f) of the Social Security Act, as amended by this Act [subsec. (f) (2) or (4) of this section], or who is entitled to a recomputation under paragraph (2) (B) of this subsection, or who is entitled to a recomputation under paragraph (5) of subsection (e) [set out as a note under this section].

"(4) The amendments [to subsec. (f) (2)] made by subsection (e) (2) shall be applicable only in the case of applications for recomputation filed after 1954. The amendment to subsec. (f) (4) made by subsection (e) (4) shall be applicable only in the case of deaths after 1954.

"(5) The amendments [to subsec. (f) (3) (A), (B)] made by subparagraph (A) of subsection (e) (3) shall be applicable only in the case of applications for recomputation filed, or deaths occurring, after August 1954.

"(6) No increase in any benefit by reason of the amendments made by this section (other than subsection (e)) or by reason of subparagraph (B) of paragraph (2) of this subsection shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act [subsec. (f) of this section]."

Section 106 (h) of act Sept. 1, 1954 provided in part that notwithstanding the provisions of subsec. (f) of this section, the amendments to subsec. (b) (1), (d) (5) and (e) (4) made by section 106 (c) of said act shall apply with respect to monthly benefits under this subchapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments should be regarded as a recomputation for purposes of subsec. (f) of this section.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENTS OF SUBSECS. (b) AND (d)

For effective and termination date of amendment of these subsections, see note set out under section 413 of this title.

EFFECTIVE DATE FOR INCREASE IN BENEFITS DERIVED FROM CONVERSION TABLE

Subsec. (c) (1) of section 2 of act July 18, 1952, provided that: "The amendments made by subsection (a) [to subsec. (c) (1), (2), (4) of this section] shall, subject to the provisions of paragraph (2) of this subsection and notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [subsec. (f) (1) of this section], apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for any month after, August 1952."

EFFECTIVE DATE FOR REVISED BENEFIT FORMULA AND FOR NEW MINIMUM AND MAXIMUM BENEFITS

Subsec. (c) (3) of section 2 of act July 18, 1952, provided that: "The amendments made by subsection (b) [to sections 403 (a) and 415 (a) (1) of this title] shall (notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [subsec. (f) (1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after August 1952, and in the case of monthly benefits under such section for months after August 1952."

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see note set out under section 409 of this title.

SHORT TITLE OF 1952 AMENDMENTS

Section 1 of act July 18, 1952, provided that: "This Act [which enacted section 1309 of this title, amended sections 303, 403, 405, 413-417, 603, 1203, 1353 of this title, and section 228a and 228e of Title 45, Railroads] may be cited as 'Social Security Act Amendments of 1952'."

SAVINGS PROVISIONS OF PUB. L. 86-778 FOR RECOMPUTATIONS UNDER SUBSECS. (f)(2) AND (f)(4)

Section 303(i) of Pub. L. 86-778 provided that:

"(1) In the case of an application for recomputation under section 215(f)(2) of the Social Security Act [subsec. (f)(2) of this section] filed after 1954 and prior to 1961, the provisions of section 215(f)(2) of such Act [subsec. (f)(2) of this section] in effect prior to the enactment of this Act shall apply.

"(2) In the case of an individual who died after 1954 and prior to 1961 and who was entitled to an old-age insurance benefit under section 202(a) [section 402(a) of this title] at the time of his death, the provisions of section 215(f)(4) of the Social Security Act [subsec. (f)(4) of this section] in effect prior to the enactment of this Act shall apply."

SAVINGS PROVISIONS OF PUB. L. 85-840

Section 101 (i) of Pub. L. 85-840 provided that: "In the case of any individual to whom the provisions of subsection (b) (5) of section 215 of the Social Security Act [subsec. (b) (5) of this section], as amended by this Act, are applicable and on the basis of whose wages and self-employment income benefits are payable for months prior to January 1959, his primary insurance amount for purposes of benefits for such prior months shall, if based on an application for such benefits or for a recomputation of such amount, as the case may be, filed after December 1958, be determined under such section 215 [this section], as in effect prior to the enactment of this Act [August 28, 1958], and, if such individual's primary insurance amount as so determined is larger than the primary insurance amount determined for him under section 215 [this section] as amended by this Act, such larger primary insurance amount (increased to the next higher dollar if it is not a multiple of a dollar) shall, for months after December 1958, be his primary insurance amount for purposes of such section 215 (and of the other provisions) of the Social Security Act [this section] as amended by this Act in lieu of the amount determined without regard to this subsection."

SAVINGS PROVISIONS OF ACT JULY 18, 1952

Subsec. (d) of section 2 of act July 18, 1952, provided that:

"(1) Where—

"(A) an individual was entitled (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1952;

"(B) two or more other persons were entitled (without the application of such section 202 (j) (1) [section 402 (j) (1) of this title]) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

"(C) the total of the benefits to which all persons are entitled under such title [this subchaper] on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title [this subchapter], would (but for the provisions of this paragraph) be reduced

by reason of the application of section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title],

then the total of benefits, referred to in clause (C), for such subsequent month shall be reduced to whichever of the following is the larger:

"(D) the amount determined pursuant to section 203 (a) of the Social Security Act, as amended by this Act [section 403 (a) of this title]; or

"(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [July 18, 1952], for August 1952 plus the excess of (i) the amount of his old-age insurance benefit for August 1952 computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for August 1952, over (ii) the amount of his old-age insurance benefit for August 1952.

"(2) No increase in any benefit by reason of the amendments made by this section or by reason of paragraph (2) of subsection (c) of this section shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act [subsec. (f) of this section]."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

CONVERSION OF DISABILITY INSURANCE BENEFITS TO OLD-AGE INSURANCE BENEFITS

Section 1002(f) of Pub. L. 91–172 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1969 and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1970, or he died in such month, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] (if applicable), the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (c) of this section]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

Section 101(f) of Pub. L. 90–248 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for the month of January 1968 and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for the month of February 1968, or who died in such month, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] (if applicable) the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (c) of this section]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

Section 301(e) of Pub. L. 89–97 provided that: "If an individual is entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1964 on the basis of an application filed after enactment of this Act [July 30, 1965] and is entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1965, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] (if applicable) the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [subsec. (a) of this section]) instead of the amount in column IV equal to his disability insurance benefit."

Section 101(h) of Pub. L. 85–840 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1958, and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title], or died, in January 1959, then, for purposes of paragraph (4) of section 215(a) of the Social Security Act [subsec. (a)(4) of this section], as amended by this Act, the amount in column IV of the table appearing in such section 215(a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of such section 215 [subsec. (c) of this section]) instead of the amount in column IV equal to his disability insurance benefit."

COMPUTATION OF PRIMARY INSURANCE AMOUNT FOR PERSONS ENTITLED TO BENEFITS AFTER JANUARY 2 AND BEFORE FEBRUARY 1968

Section 155(a)(7)–(9) of Pub. L. 90–248 provided in part that:

"(7) (A) The amendments made by paragraphs (4) and (5) [to subsec. (f)(2) of this section] shall apply with respect to recomputations made under 215(f)(2) of the Social Security Act [subsec. (f)(2) of this section] after the date of the enactment of this Act [Jan. 2, 1968].

"(B) The amendments made by paragraph (6) [enacting subsec. (f)(5) of this section] shall apply with respect to individuals who die after the date of enactment of this Act [Jan. 2, 1968].

"(8) In any case in which—

"(A) any person became entitled to a monthly benefit under section 202 or 223 of the Social Security Act [section 402 or 423 of this title] after the date of enactment of this Act [Jan. 2, 1968] and before February 1968, and

"(B) the primary insurance amount on which the amount of such benefit is based was determined by applying section 215(d) of the Social Security Act [subsec. (d) of this section] as amended by this Act,

such primary insurance amount shall, for purposes of section 215(c) of the Social Security Act [subsec. (c) of this section], as amended by this Act, be deemed to have been computed on the basis of the Social Security Act [this chapter] in effect prior to the enactment of this Act [Jan. 2, 1968].

"(9) The amendment made by paragraphs (1) and (2) [amending subsecs. (d)(1) and (2) of this section] shall not apply with respect to monthly benefits for any month prior to January 1967."

COMPUTATION OF PRIMARY INSURANCE AMOUNT FOR CERTAIN INDIVIDUALS WHO WERE FULLY INSURED AND HAD ATTAINED RETIREMENT AGE PRIOR TO 1961

Section 303(g)(1) of Pub. L. 86–778, as amended by Pub. L. 87–64, title I, § 103(d), June 30, 1961, 75 Stat. 138; Pub. L. 89–97, title III, § 302(f)(6), July 30, 1965, 79 Stat. 366; Pub. L. 90–248, title I, § 155(c), Jan. 2, 1968, 81 Stat. 866, provided that: "In the case of any individual who both was fully insured and had attained retirement age prior to 1961 and (A) who becomes entitled to old-age insurance benefits after 1960, or (B) who dies after 1960 without being entitled to such benefits, then, notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c)(2), (d)(1), (3), (e) (2—4) and (f) (2—4) of this section and section 423(a)(2) of this title], or the amendments made by the Social Security Amendments of 1965 and 1967 the Secretary shall also compute such individual's primary insurance amount on the basis of such individual's average monthly wage determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act with a closing date determined under section 215(b)(3)(B) of such Act [subsec. (b)(3)(B) of this section] as then in effect, but only if such closing date would have been applicable to such com-

putation had this section not been enacted. If the primary insurance amount resulting from the use of such an average monthly wage is higher than the primary insurance amount resulting from the use of an average monthly wage determined pursuant to the provisions of section 215 of the Social Security Act [this section], as amended by the Social Security Amendments of 1960 [Pub. L. 86–778], or (if such individual becomes entitled to old-age insurance benefits after the date of enactment of the Social Security Amendments of 1967, or dies after such date without becoming so entitled) as amended by the Social Security Amendments of 1967, such higher primary insurance amount shall be the individual's primary insurance amount for purposes of such section 215 [this section]. The terms used in this subsection shall have the meaning assigned to them by title II of the Social Security Act [this subchapter]; except that the terms 'fully insured' and 'retirement age' shall have the meaning assigned to them by such title II [this subchapter] as in effect on September 13, 1960."

Section 103(d) of Pub. L. 87–64 provided in part that the amendment of section 303(g)(1) of Pub. L. 86–778 shall be effective September 13, 1960.

DISREGARDING OF RETROACTIVE PAYMENT OF OASDI BENEFIT INCREASE AND OF RAILROAD RETIREMENT BENEFIT INCREASE

Section 1006 of Pub. L. 91–172, as amended by Pub. L. 91–306, § 2(a)(1), July 6, 1970, 84 Stat. 407, provided that: "Notwithstanding the provisions of sections 2(a)(10) [section 302(a)(10) of this title], 402(a)(7) [section 602(a)(7) of this title], 1002(a)(8) [section 1202(a)(8) of this title], 1402(a)(8) [section 1352(a)(8) of this title], and 1602(a)(13) and (14) of the Social Security Act [subsecs. (a)(13) and (14) of section 1382 of this title], each State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI [subchapters I, X, XIV, or XVI of this chapter], or part A of title IV, of such Act [part A of subchapter IV of this chapter], shall disregard (and the plan shall be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to any individual (1) under title II of such Act [this subchapter] (or under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45] by reason of the first proviso in section 3(e) thereof [section 228c(e) of Title 45]), in any month after December 1969, to the extent that (A) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January or February 1970 resulting from the enactment of this title [this chapter], and (B) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January or February 1970; or (2) as annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, if such amount is paid in a lump-sum to carry out any retroactive increase in annuities or pensions payable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 brought about by reason of the enactment (after May 30, 1970 and prior to December 31, 1970) of any Act which increases, retroactively, the amount of such annuities or pensions."

DISREGARDING OF INCOME OF OASDI RECIPIENTS AND RAILROAD RETIREMENT RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

Section 1007 of Pub. L. 91–172, as amended by Pub. L. 91–306, § 2(b)(1), July 6, 1970, 84 Stat. 408; Pub. L. 91–669, Jan. 11, 1971, 84 Stat. 2038, provided that:

"In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid to individuals under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter], there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual found eligible (as a result of the requirement imposed by this section or otherwise) for aid for any month after March 1970 and before January 1972 who also receives in such month—

"(1) a monthly insurance benefit under title II of such Act [this subchapter], the sum of the aid received by him for such month, plus the monthly insurance benefit received by him in such month, shall not be less than the sum of the aid which would have been received by him for such month under the State plan as in effect for March 1970, plus either

"(A) the monthly insurance benefit which was or would have been received by him in March 1970 without regard to the other provisions of this title plus $4, or

"(B) the monthly insurance benefit which was or would have been received by him in March 1970 under the provisions of this title,

whichever is less (whether this requirement is satisfied by disregarding a portion of his monthly insurance benefit or otherwise), or

"(2) a monthly payment of annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 [section 228a et seq. of Title 45], the sum of the aid received by him in such month, plus the monthly payment of such annuity or pension received by him in such month (not including any part of such annuity or pension which is disregarded under section 1006) [set out as a note under this section], shall (except as otherwise provided in the succeeding sentence) not be less than the sum of the aid which would have been received by him for such month under such plan as in effect for March 1970, plus either

"(A) the monthly payment of annuity or pension, which was or would have been received by him in March 1970 without regard to the provisions of any Act enacted after May 30, 1970, and before December 31, 1970, which provides general increases in the amount of such monthly payment of annuity or pension plus $4, or

"(B) the monthly payment of annuity or pension which was or would have been received by him in March 1970, taking into account the provisions of such Act (if any),

whichever is less (whether this requirement is satisfied by disregarding a portion of his monthly payment of annuity or pension or otherwise)."

DISREGARDING OASDI BENEFIT INCREASES AND CHILD'S INSURANCE BENEFIT PAYMENTS BEYOND AGE 18 TO THE EXTENT ATTRIBUTABLE TO RETROACTIVE EFFECTIVE DATE OF 1965 AMENDMENTS

Section 406 of Pub. L. 89–97 provided that:

"Notwithstanding the provisions of sections 2(a)(10) and (11)(D), 402(a)(7), 1002(a)(8), 1402(a)(8), and 1602(a)(13) and (14) of the Social Security Act [sections 302(a)(10) and (11)(D), 602(a)(7), 1202(a)(8), 1352(a)(8), and 1382(a)(13) and (14) of this title], a State may disregard, in determining need for aid or assistance under a State plan approved under title, I, IV, X, XIV, or XVI of such Act [subchapter I, IV, X, XIV, or XVI of this chapter], any amount paid to any individual under title II of such Act [subchapter II of this chapter] (or under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45] by reason of section 326(a) of this Act [amending sections 228a(q) and 228e(*l*)(9) of Title 45], for any one or more months which occur after December 1964 and before the third month following the month in which this Act is enacted [July 1965], to the extent that such payment is attributable—

"(1) to the increase in monthly insurance benefits under the old-age, survivors, and disability insurance system resulting from the enactment of section 301 of this Act [amending this section and section 403 of this title], or

"(2) to the payment of child's insurance benefits under such system after attainment of age 18, in the case of individuals attending school, resulting from the enactment of section 306 of this Act [amending sections 402, 403, 416, 422, and 425 of this title]."

COMPUTATION OF AVERAGE MONTHLY WAGE FOR CERTAIN INDIVIDUALS ENTITLED TO DISABILITY INSURANCE BENEFITS PRIOR TO 1961

Section 303(g)(2) of Pub. L. 86–778 provided that: "Notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c)(2), (d)(1), (3), (e)(2—4) and (f)(2—4) of this section and section 423(a)(2) of this title], in the case of any

individual who was entitled (without regard to the provisions of section 223(b) of the Social Security Act [section 423(b) of this title]) to a disability insurance benefit under such section 223 [section 423 of this title] for the month before the month in which he became entitled to an old-age insurance benefit under section 202(a) of such Act [section 402(a) of this title], or in which he died, and such disability insurance benefit was based upon a primary insurance amount determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act, the Secretary shall, in applying the provisions of such section 215(a) [subsec. (a) of this section] (except paragraph (4) thereof), for purposes of determining benefits payable under section 202 of such Act [section 402 of this title] on the basis of such individual's wages and self-employment income, determine such individual's average monthly wage under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act. The provisions of this paragraph shall not apply with respect to any such individual, entitled to such old-age insurance benefits, (i) who applies, after 1960, for a recomputation (to which he is entitled) of his primary insurance amount under section 215(f)(2) of such Act [subsec. (f)(2) of this section], or (ii) who dies after 1960 and meets the conditions for a recomputation of his primary insurance amount under section 215(f)(4) of such Act [subsec. (f)(4) of this section]."

AVERAGE MONTHLY WAGE FOR CERTAIN INDIVIDUALS ENTITLED TO MONTHLY BENEFITS OR TO RECOMPUTATION OF PRIMARY INSURANCE AMOUNT FOR MONTHS PRIOR TO JANUARY 1961

Section 303(j) of Pub. L. 86–778 provided that:

"In the case of an individual whose average monthly wage is computed under the provisions of section 215(b) of the Social Security Act [subsec. (b) of this section], as amended by this Act, and—

"(1) who is entitled, by reason of the provisions of section 202(j)(1) or section 223(b) of the Social Security Act [section 402(j)(1) or 423(b) of this title], to a monthly benefit for any month prior to January 1961, or

"(2) who is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, by reason of section 215(f) of the Social Security Act [subsec. (f) of this section], to have his primary insurance amount recomputed effective for a month prior to January 1961,

his average monthly wage as determined under the provisions of such section 215(b) [subsec. (b) of this section] shall be his average monthly wage for the purposes of determining his primary insurance amount for such prior month."

LAG RECOMPUTATION PRESERVED FOR CERTAIN INDIVIDUALS ELIGIBLE OR DEAD PRIOR TO SEPT. 1954

Section 102(e)(8) of act Sept. 1, 1954, as amended by Pub. L. 86–778, title III, § 304(c), Sept. 13, 1960, 74 Stat. 966, provided that:

"In the case of an individual who became (without the application of section 202(j)(1) [section 402(j)(1) of this title]) entitled to old-age insurance benefits or died prior to September 1954, the provisions of section 215(f)(3) [subsec. (f)(3) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] shall be applicable as though this Act had not been enacted but only if such individual files the application referred to in subparagraph (A) of such section prior to January 1961 or (if he dies without filing such application) his death occurred prior to January 1961."

"(D) Notwithstanding the provisions of subparagraphs (A), (B), and (C), the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in subparagraph (A) or (B) prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961."

RIGHT TO RECOMPUTATION UNDER LAW PRIOR TO ENACTMENT OF ACT SEPT. 1, 1954

Section 102(e)(5) of act Sept. 1, 1954, as amended by Pub. L. 86–778, title III, § 304(b), Sept. 13, 1960, 74 Stat. 966, provided that:

"(A) In the case of any individual who, upon filing application therefor before September 1954, would (but for the provisions of section 215 (f) (6) of the Social Security Act [subsec. (f) (6) of this section]) have been entitled to a recomputation under subparagraph (A) or (B) of section 215 (f) (2) of such Act [subsec. (f) (2) (A) or (B) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954], the Secretary shall recompute such individual's primary insurance amount, but only if he files an application therefor or, in case he died before filing such application, an application for monthly benefits or a lump-sum death payment on the basis of his wages and self-employment income is filed. Such recomputation shall be made only as provided in subsection (a) (2) of section 215 of the Social Security Act, as amended by this Act [subsec. (a) (2) of this section], through the use of a primary insurance amount determined under subsection (d) (6) of such section in the same manner as for an individual to whom subsection (a) (1) of such section, as in effect prior to the enactment of this Act [Sept. 1, 1954], is applicable; and such recomputation shall take into account only such wages and self-employment income as would be taken into account under section 215 (b) of the Social Security Act [section 415 (b) of this title] if the month in which the application for recomputation is filed, or if the individual died without filing the application for recomputation, the month in which he died, were deemed to be the month in which he became entitled to old-age insurance benefits. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivor benefits becomes entitled to such benefits.

"(B) In the case of—

"(i) any individual who is entitled to a recomputation under subparagraph (A) of section 215 (f) (2) of the Social Security Act [subsec. (f) (2) (A) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after such month leaving any survivors entitled to a recomputation under section 215 (f) (4) of the Social Security Act [subsec. (f) (4) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or with respect to whom the twelfth month referred to in such subparagraph (A) occurred after such month, and

"(ii) any individual who is entitled to a recomputation under section 215 (f) (2) (B) of the Social Security Act [subsec. (f) (2) (B) of this section] as is in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after August 1954 leaving any survivors entitled to a recomputation under section 215 (f) (4) of the Social Security Act [subsec. (f) (4) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or who did not attain the age of seventy-five prior to September 1954,

the recomputation of his primary insurance amount shall be made in the manner provided in section 215 of the Social Security Act, as amended by this Act [this section], for computation of such amount, except that his closing date, for purposes of subsection (b) of such section 215, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for or, if he has died, in the month in which he died. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivors benefits becomes entitled to such benefits.

"(C) An individual or, in case of his death, his survivors entitled to a lump-sum death payment or to monthly benefits under section 202 of the Social Security

Act on the basis of his wages and self-employment income shall be entitled to a recomputation of his primary insurance amount under section 215 (f) (2) or section 215 (f) (4) of the Social Security Act [subsec. (f) (2), (4), of this section] as in effect prior to the date of enactment of this Act [Sept. 1, 1954] only if (i) he had not less than six quarters of coverage in the period after 1950 and prior to January 1, 1955, and (ii) either the twelfth month referred to in subparagraph (A) of such section 215 (f) (2) occurred prior to January 1, 1955, or he attained the age of 75 prior to 1955, and (iii) he meets the other conditions of entitlement to such a recomputation. No individual shall be entitled to a computation under subparagraph (A) or (B) of this paragraph if his primary insurance amount has previously been recomputed under either of such subparagraphs.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT IN CERTAIN CASES WHERE APPLICATION FOR RECOMPUTATION IS FILED ON OR AFTER SEPT. 13, 1960

Section 303(h) of Pub. L. 86-778 provided that:

"In any case where application for recomputation under section 215(f)(3) of the Social Security Act [subsec. (f)(3) of this section] is filed on or after the date of the enactment of this Act [Sept. 13, 1960] with respect to an individual for whom the last previous computation of the primary insurance amount was based on an application filed prior to 1961, or who died before 1961, the provisions of section 215 of such Act [this section] as in effect prior to the enactment of this Act shall apply except that—

"(1) such recomputation shall be made as provided in section 215(a) of the Social Security Act [subsec. (a) of this section] (as in effect prior to the enactment of this Act) and as though such individual first became entitled to old-age insurance benefits in the month in which he filed his application for such recomputation or died without filing such an application, and his closing date for such purposes shall be as specified in such section 215(f)(3) [subsec. (f)(3) of this section]; and

"(2) the provisions of section 215(b)(4) of the Social Security Act [subsec. (b)(4) of this section] (as in effect prior to the enactment of this Act) shall apply only if they were applicable to the last previous computation of such individual's primary insurance amount, or would have been applicable to such computation if there had been taken into account—

"(A) his wages and self-employment income in the year in which he became entitled to old-age insurance benefits or filed application for the last previous recomputation of his primary insurance amount, where he is living at the time of the application for recomputation under this subsection, or

"(B) his wages and self-employment income in the year in which he died without becoming entitled to old-age insurance benefits, or (if he was entitled to such benefits) the year in which application was filed for the last previous computation of his primary insurance amount or in which he died, whichever first occurred, where he has died at the time of the application for such recomputation.

If the primary insurance amount of an individual was recomputed under section 215(f)(3) of the Social Security Act [subsec. (f)(3) of this section] as in effect prior to the enactment of this Act, and such amount would have been larger if the recomputation had been made under such section as modified by this subsection, then the Secretary shall recompute such primary insurance amount under such section as so modified, but only if an application for such recomputation is filed on or after the date of the enactment of this Act [Sept. 13, 1960]. A recomputation under the preceding sentence shall be effective for and after the first month for which the last previous recomputation of such individual's primary insurance amount under such section 215 [this section] was effective, but in no event for any month prior to the twenty-fourth month before the month in which the application for a recomputation is filed under the preceding sentence."

SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1957 BENEFIT AMOUNTS

Section 110 of act Aug. 1, 1956, provided that: "In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to old-age insurance benefits in 1957 and with respect to whom not less than six of the quarters elapsing after 1955 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215 (a) (1) (A) of such Act [subsec. (a) (1) (A) of this section], with a starting date of December 31, 1955, and a closing date of July 1, 1957, but only if it would result in a higher primary insurance amount. For the purposes of section 215 (f) (3) (C) of such Act [subsec. (f) (3) (C) of this section], the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215 (b) (3) (A) of such Act [subsec. (b) (3) (A) of this section] and the recomputation provided for by such section 215 (f) (3) (C) [subsec. (f) (3) (C) of this section] shall be made using July 1, 1957, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1957, closing date, the total of his wages and self-employment income after December 31, 1956, shall, if it is in excess of $2,100, be reduced to such amount."

SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1966 BENEFIT AMOUNTS

Section 102 (e) (6) of act Sept. 1, 1954, provided that: "In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to old-age insurance benefits in 1956 and with respect to whom not less than six of the quarters elapsing after 1954 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215 (a) (1) (A) of such Act, as amended by this Act [subsec. (a) (1) (A) of this section], with a starting date of December 31, 1954, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. For the purposes of section 215 (f) (3) (C) of such Act [subsec. (f) (3) (C) of this section], the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215 (b) (3) (A) of such Act [subsec. (b) (3) (A) of this section], and the recomputation provided for by such section 215 (f) (3) (C) [subsec. (f) (3) (C) of this section] shall be made using July 1, 1956, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, shall, if it is in excess of $2,100, be reduced to such amount."

STUDY OF FEASIBILITY OF INCREASING BENEFITS

Section 404 of act Sept. 1, 1954, provided that:

"(a) The Secretary of Health, Education, and Welfare shall conduct a full and complete study with a view to determining the feasibility of increasing the minimum old-age insurance benefit under title II of the Social Security Act [this subchapter] to (1) $55 per month, (2) $60 per month, and (3) $75 per month.

"(b) Such study shall include (1) a detailed analysis of the estimated increase in cost, if any, involved in increasing such minimum benefit to each of the above referred to amounts, (2) estimates of the financial impact such increase would have upon the Old Age and Survivors Insurance Trust Fund, and (3) an estimate of the amount, if any, by which Federal grants to the States for public assistance would be reduced by reason of such increase in minimum old-age insurance benefits.

"(c) The Secretary shall report to the Congress at the earliest practicable date the results of the study provided for by this section."

CHANGE OF WAGE CLOSING DATE OF CERTAIN INDIVIDUALS DEAD OR ELIGIBLE IN 1952 TO THE FIRST WAY OF THE QUARTER OF DEATH OR ENTITLEMENT

Subsec. (c) of section 6 of act July 18, 1952, provided that: "In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to old-age insurance benefits in 1952 and with respect to whom not less than six of the quarters elapsing after 1950 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his wage closing date shall be the first day of such quarter of death or entitlement instead of the day specified in section 215 (b) (3) of such Act [subsec. (b) (3) of this section], but only if it would result in a higher primary insurance amount for such individual. The terms used in this paragraph shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

COMPUTATION OF INCREASED BENEFITS TO INDIVIDUALS ENTITLED THERETO FOR AUGUST 1952

Section 6 (e) of act July 18, 1952, provided that: "In case the benefit of any individual for any month after August 1952 is computed under section 2 (c) (2) (A) of this Act [set out as a note under this section] through use of a benefit (after the application of sections 203 and 215 (g) of the Social Security Act [sections 403 and 415 (g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952 which could have been derived from either of two (and not more than two) primary insurance amounts, and such primary insurance amounts differ from each other by not more than $0.10, then the benefit of such individual for such month of August 1952 shall, for the purposes of the last sentence of such section 2 (c) (2) (A) [set out as a note under this section], be deemed to have been derived from the larger of such two primary insurance amounts."

COMPUTATION OF INCREASED BENEFITS FOR DEPENDENTS AND SURVIVORS ON BENEFIT ROLLS FOR AUGUST 1952

Subsec. (c) (2) of section 2 of act July 18, 1952, as amended by act Sept. 1, 1954, § 102 (g), eff. Sept. 1, 1954, provided that:

"(A) In the case of any individual who is (without the application of section 202 (j) (1) of the Social Security Act) [section 402 (j) (1) of this title] entitled to a monthly benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of such section 202 [section 402 of this title] for August 1952, whose benefit for such month is computed through use of a primary insurance amount determined under paragraph (1) or (2) of section 215 (c) of such Act [subsec. (c) of this section], and who is entitled to such benefit for any succeeding month on the basis of the same wages and self-employment income, the amendments made by this section shall not (subject to the provisions of subparagraph (B) of this paragraph) apply for purposes of computing the amount of such benefit for such succeeding month. The amount of such benefit for such succeeding month shall instead be equal to the larger of (i) 112½ per centum of the amount of such benefit (after the application of sections 203 (a) and 215 (g) of the Social Security Act [sections 403 (a) and 415 (g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952, increased, if it is not a multiple of $0.10, to the next higher multiple of $0.10, or (ii) the amount of such benefit (after the application of sections 203 (a) and 215 (g) of the Social Security Act [sections 403 (a) and 415 (g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952, increased by an amount equal to the product obtained by multiplying $5 by the fraction applied to the primary insurance amount which was used in determining such benefit, and further increased, if such product is not a multiple of $0.10, to the next higher multiple of $0.10. The provisions of section 203 (a) of the Social Security Act, as amended by this section [section 403 (a) of this title] (and, for purposes of such section 203 (a) [section 403 (a) of this title], the provisions of section 215 (c) (4) of the Social Security Act, as amended by this section [subsec. (c) (4) of this section]), shall apply to such benefit as computed under the preceding sentence of this subparagraph, and the resulting amount, if not a multiple of $0.10, shall be increased to the next higher multiple of $0.10.

"(B) The provisions of subparagraph (A) shall cease to apply to the benefit of any individual under title II of the Social Security Act [this subchapter] for any month after August 1954."

DETERMINATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED AFTER 1939 AND PRIOR TO 1951

Section 204(b) of Pub. L. 86–778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual who died after 1939 and prior to 1951 shall be determined as provided in section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

BENEFITS IN CERTAIN CASES OF DEATHS BEFORE SEPTEMBER 1950

Section 109 of act Sept. 1, 1954, as amended by Pub. L. 86–778, title II, § 204(c), Sept. 13, 1960, 74 Stat. 948, provided that:

"(a) In the case of any individual—

"(1) who died prior to September 1, 1950, and was not a fully insured individual (under title II of the Social Security Act [this subchapter]), when he died, and

"(2) who had not less than six quarters of coverage (as defined in such title),

such individual shall, except for purposes of determining entitlement of a former wife divorced to benefits under section 202(g) of the Social Security Act [section 402(g) of this title], be deemed to have died a fully insured individual. Such individual's primary insurance amount shall be computed under subsection (a)(2) of section 215 of such Act [subsec. (a)(2) of this section]. For the purpose of such computation, the provisions of section 215(d)(3) of such Act [subsec. (d)(3) of this section] shall apply if such individual died a currently insured individual (under title II of such Act [subchapter II of this chapter]) and any other person was entitled on the basis of his wages to monthly benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title]; in all other cases the provisions of section 215(d)(4) [subsec. (d)(4) of this section] shall be applicable, except that such individual's closing date shall be the first day of the quarter in which he died. In the case of any such individual, the requirement in subsection (h) of section 202 of such Act [section 402(h) of this title] that proof of support be filed within two years of the date of his death shall not apply if such proof is filed before September 1956.

"(b) The provisions of subsection (a) shall be applicable only in the case of monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months after August 1954, on the basis of applications filed after such month and in or prior to the month in which the Social Security Amendments of 1960 are enacted [Sept. 1960]."

COMPUTATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED PRIOR TO 1940

Section 205(c) of Pub. L. 86–778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual who died prior to 1940, and who had not less than six quarters of coverage (as defined in section 213 of such Act [section 413 of this title]), shall be computed under section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

Section 205(c) of Pub. L. 86–778 as applicable only in the case of monthly benefits under this subchapter for months after September 1960, on the basis of applications filed in or after such month, see section 205(d) of Pub. L. 86–778, set out as a note under section 402 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare, see note set out under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 417, 423 of this title and in title 20 section 880b–2; title 45 sections 228c, 228e.

§ 416. Additional definitions.

For the purposes of this subchapter—

(a) Repealed. Pub. L. 87-64, title I, § 102(c)(1), June 30, 1961, 75 Stat. 134.

(b) Wife.

The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed; or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 228e of Title 45.

(c) Widow.

The term "widow" (except when used in section 402(i) of this title) means the surviving wife of an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (4) she was married to him at the time both of them legally adopted a child under the age of eighteen, (5) she was married to him for a period of not less than nine months immediately prior to the day on which he died, or (6) in the month prior to the month of her marriage to him (A) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 228e of Title 45.

(d) Divorced wives; divorce.

(1) The term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual for a period of 20 years immediately before the date the divorce became effective.

(2) The term "surviving divorced wife" means a woman divorced from an individual who has died, but only if she had been married to the individual for a period of 20 years immediately before the date the divorce became effective.

(3) The term "surviving divorced mother" means a woman divorced from an individual who has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The term "divorce" and "divorced" refer to a divorce a vinculo matrimonii.

(e) Child.

The term "child" means (1) the child or legally adopted child of an individual, and (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child's insurance benefits is filed or (if the insured individual is deceased) not less than nine months immediately preceding the day on which such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death, or (B) such child was adopted by such individual's surviving spouse before the end of two years after (i) the day on which such individual died or (ii) August 28, 1958; except that this sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for children. For purposes of clause (2), a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (h)(1)(B) of this section, would have been a valid marriage.

(f) Husband.

The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or upon application therefor and

attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 228e of Title 45.

(g) Widower.

The term "widower" (except when used in section 402(i) of this title) means the surviving husband of an individual, but only if (1) he is the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than nine months immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 228e of Title 45.

(h) Determination of family status.

(1) (A) An applicant is the wife, husband, widow or widower of a fully or currently insured individual for purposes of this subchapter if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(B) In any case where under subparagraph (A) an applicant is not (and is not deemed to be) the wife, widow, husband, or widower of a fully or currently insured individual, or where under subsection (b), (c), (f), or (g) of this section such applicant is not the wife, widow, husband, or widower of such individual, but it is established to the satisfaction of the Secretary that such applicant in good faith went through a marriage ceremony with such individual resulting in a purported marriage between them which, but for a legal impediment not known to the applicant at the time of such ceremony, would have been a valid marriage, and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or (if such insured individual is living) at the time such applicant files the application, then, for purposes of subparagraph (A) and subsections (b), (c), (f), and (g) of this section, such purported marriage shall be deemed to be a valid marriage. The provisions of the preceding sentence shall not apply (i) if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii) if the Secretary determines, on the basis of information brought to his attention, that such applicant entered into such purported marriage with such insured individual with knowledge that it would not be a valid marriage. The entitlement to a monthly benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title, based on the wages and self-employment income of such insured individual, of a person who would not be deemed to be a wife, widow, husband, or widower of such insured individual but for this subparagraph, shall end with the month before the month (i) in which the Secretary certifies, pursuant to section 405(i) of this title, that another person is entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual, if such other person is (or is deemed to be) the wife, widow, husband, or widower of such insured individual under subparagraph (A), or (ii) if the applicant is entitled to a monthly benefit under subsection (b) or (c) of section 402 of this title, in which such applicant entered into a marriage, valid without regard to this subparagraph, with a person other than such insured individual. For purposes of this subparagraph, a legal impediment to the validity of a purported marriage includes only an impediment (i) resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or (ii) resulting from a defect in the procedure followed in connection with such purported marriage.

(2) (A) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this subchapter, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1)(B), would have been a valid marriage.

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2) of this subsection, shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgment, court decree, or court order was made not less than one year before such insured individual became entitled to old-age insurance benefits or attained age 65, whichever is earlier; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of the applicant at the time such insured individual became entitled to benefits or attained age 65, whichever first occurred;

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he was entitled to old-age insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgment, court decree, or court order was made before such insured individual's most recent period of disability began; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of that applicant at the time such period of disability began;

(C) in the case of a deceased individual—

(i) such insured individual—

(I) had acknowledged in writing that the applicant is his son or daughter,

(II) had been decreed by a court to be the father of the applicant, or

(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his son or daughter,

and such acknowledgment, court decree, or court order was made before the death of such insured individual, or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to have been the father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

(i) Disability; period of disability.

(1) Except for purposes of sections 402(d), 402(e), 402(f), 423 and 425 of this title, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (3), (4), and (5) of section 423(d) of this title shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this subchapter shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than 6 full calendar months' duration or such individual was entitled to benefits under section 423 of this title for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of 65.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases.

(E) Except as is otherwise provided in subparagraph (F), no application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraphs (B) and (E)) shall be accepted as an application for purposes of this paragraph if—

(i) in the case of an application filed by or on behalf of an individual with respect to a disability which ends after January 1968, such application is filed not more than 36 months after the month in which such disability ended, such individual is alive at the time the application is filed, and the Secretary finds in accordance with regulations prescribed by him that the failure of such individual to file an application for a disability determination within the time specified in subparagraph (E) was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application, and

(ii) in the case of an application filed by or on behalf of an individual with respect to a period of disability which ends in or before January 1968,

(I) such application is filed not more than 12 months after January 1968,

(II) a previous application for a disability determination has been filed by or on behalf of such individual (1) in or before January 1968, and (2) not more than 36 months after the month in which his disability ended, and

(III) the Secretary finds in accordance with regulations prescribed by him, that the failure of such individual to file an application within the then specified time period was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application.

In making a determination under this subsection, with respect to the disability or period of disability of any individual whose application for a determination thereof is accepted solely by reason of the provisions of this subparagraph (F), the provisions of this subsection (other than the provisions of this subparagraph) shall be applied as such provisions are in effect at the time such determination is made.

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application only if the applicant satisfies the requirements for a period of disability before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed on such first day.

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) of this subsection are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 (if a woman) or age 65 (if a man) and filed application for benefits under section 402(a) of this title on the first day of such quarter; and

(B) (i) he had not less than twenty quarters of coverage during the forty-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage;

except that the provisions of subparagraph (A) of this paragraph shall not apply in the case of an individual with respect to whom a period of disability would, but for such subparagraph, begin before 1951. For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.

(j) Periods of limitation ending on nonwork days.

Where this subchapter, any provision of another law of the United States (other than the Internal Revenue Code of 1954) relating to or changing the effect of this subchapter, or any regulation issued by the Secretary pursuant thereto provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this subchapter or is necessary to establish or protect any rights under this subchapter, and such period ends on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order. For purposes of this subsection, the day on which a period ends shall include the day on which an extension of such period, as authorized by law or by the Secretary pursuant to law, ends. The provisions of this subsection shall not extend the period during which

benefits under this subchapter may (pursuant to section 402(j)(1) or 423(b) of this title) be paid for months prior to the day application for such benefits is filed, or during which an application for benefits under this subchapter may (pursuant to section 402(j)(2) or 423(b) of this title) be accepted as such.

(k) Waiver of nine-month requirement for widow, stepchild, or widower in case of accidental death or in case of serviceman dying in line of duty.

The requirement in clause (5) of subsection (c) or clause (5) of subsection (g) of this section that the surviving spouse of an individual have been married to such individual for a period of not less than nine months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in subsection (e) of this section that the stepchild of a deceased individual have been such stepchild for not less than nine months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to be satisfied, where such individual dies within the applicable nine-month period, if his death—

(1) is accidental, or

(2) occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in section 410(*l*)(2) of this title),

and he would satisfy such requirement if a three-month period were substituted for the nine-month period; except that this subsection shall not apply if the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months. For purposes of paragraph (1) of the preceeding sentence, the death of an individual is accidental, if he receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than three months after the day on which he receives such bodily injuries. (Aug. 14, 1935, ch. 531, title II, § 216, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, § 3(d), 66 Stat. 771; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 106(d), 68 Stat. 1080; Aug. 1, 1956, ch. 836, title I, §§ 102 (a), (d)(12), 103(c)(6), 70 Stat. 809, 815, 818; July 17, 1957, Pub. L. 85–109, § 1, 71 Stat. 308; Aug. 30, 1957, Pub. L. 85–238, § 3(h), 71 Stat. 519; Aug. 28, 1958, Pub. L. 85–840, title II, §§ 201, 203, 204 (a), title III, §§ 301 (a)(2), (b)(2), (c)(2), (d), (e), 302(a), 305(b), 72 Stat. 1020, 1021, 1026–1028, 1030; Sept. 13, 1960, Pub. L. 86–788, title II, §§ 207 (a)–(c), 208 (a)–(c), title IV, §§ 402(e), 403(c), title VII, § 703, 74 Stat. 950—952, 968, 969, 994; June 30, 1961, Pub. L. 87–64, title I, §§ 102 (b)(2)(D), (c)(1), (2)(B), (3)(C), 105, 75 Stat. 134, 135, 139; Oct. 13, 1964, Pub. L. 88–650, § 1 (a)–(c), 78 Stat. 1075; July 30, 1965, Pub. L. 89–97, title III, §§ 303(a)(1), (b)(1), (2), 304(*l*), 306(c)(13), 308(c), (d)(2)(B), 328(b), 334(a)–(d), 339(a), 344(a), 79 Stat. 366, 367, 370, 373, 377, 378, 400, 404, 405, 409, 412; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 104(d)(2), 105(a), 111(a), 150(a), 156(a)–(d), 158(d), 172(a), (b), 81 Stat. 832, 837, 860, 866, 869, 877.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (j), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

1968—Subsec. (c)(5). Pub. L. 90–248, § 156(a), substituted "not less than nine months" for "not less than one year".

Subsec. (e). Pub. L. 90–248, §§ 150(a), 156(b), inserted in the first sentence "not less than nine months immediately preceding" preceding "the day on which such individual died", and added, in the second sentence, clause (A) and incorporated existing provisions in clause (B).

Subsec. (g)(5). Pub. L. 90–248, § 156(c), substituted "not less than nine months" for "not less than one year".

Subsec. (i)(1). Pub. L. 90–248, §§ 104(d)(2), 158(d), 172(a), (b), inserted "402(e), 402(f)," after "402(d),", redefined "blindness" to mean central visual acuity of 20/200 rather than 5/200 or less in the better eye and substituted provision deeming an eye accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as having a central visual acuity of 20/200 or less for former provision deeming an eye in which visual field is reduced to five degrees or less concentriccontraction as having a central visual acuity of 5/200 or less, respectively, and deleted former third sentence which provided that an individual was not deemed under a disability unless he furnished proof as required and added third sentence making section 423(d)(2)(A), (3), (4), and (5) of this title applicable to determine if an individual is under a disability.

Subsec. (i)(2)(E)—(G). Pub. L. 90–248, § 111(a), inserted introductory exception phrase, added subpar. (F), and redesignated former subpar. (F) as (G).

Subsec. (i)(3)(B)(ii). Pub. L. 90–248, § 105(a), deleted from clause (ii) "and he is under a disability by reason of blindness (as defined in paragraph (1) of this subsection)" following "age 31".

Subsec. (k). Pub. L. 90–248, § 156(d), added subsec. (k).

1965—Subsec. (b). Pub. L. 89–97, §§ 306(c)(13), 308 (d)(2)(B), 334(a), inserted "(subject, however, to section 402(s) of this title)", included reference to subsec. (b) of section 402 of this title, and added clause (3)(C), respectively.

Subsec. (c). Pub. L. 89–97, §§ 306(c)(13), 308(d)(2) (B), 334(b), inserted "(subject, however, to section 402 (s) of this title)", included reference to subsec. (b) of section 402 of this title, and added clause (6)(C), respectively.

Subsec. (d). Pub. L. 89–97, § 308(c), added pars. (1), (2), and (4), defining "divorced wife", "surviving divorced wife", and "divorce" and "divorced", and incorporated the definition of "former wife divorced" in par. (3), inserting "who has died" following "individual" and redesignating clauses (1)—(4) as (A)—(D).

Subsec. (f). Pub. L. 89–97, §§ 306(c)(13), 334(c), inserted "(subject, however, to section 402(s) of this title)" and added clause (3)(C), respectively.

Subsec. (g). Pub. L. 89–97, §§ 306(c)(13), 334(d), inserted "(subject, however, to section 402(s) of this title)" and added clause (6)(C), respectively.

Subsec. (h). Pub. L. 89–97, § 339(a), added par. (3).

Subsec. (i)(1)(A). Pub. L 89–97, § 303(a)(1), substituted "or has lasted or can be expected to last for a continuous period of not less than 12 months" for "or to be of long-continued and indefinite duration".

Subsec. (i)(2). Pub. L. 89–97, § 303(b)(1), deleted former sixth sentence which had provided that: "Any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be."

Subsec. (i)(2)(A). Pub. L. 89–97, § 303(b)(1), designated the first sentence as subpar. (A).

Subsec. (i)(2)(B). Pub. L. 89–97, § 303(b)(1), designated the second sentence as subpar. (B), substituted therein "No period of disability" for "No such disability", and deleted therefrom ", while under such disability," following "unless such individual".

Subsec. (i)(2)(C). Pub. L. 89–97, §§ 303(b)(1), 304(*l*), designated the third sentence as subpar. (C), deleted

"(subject to section 423(a)(3) of this title)" preceding "begin", and redesignated clauses (A) and (B) thereof as (i) and (ii); and again deleted "(subject to section 423 (a)(3) of this title)" preceding "begin", respectively.

Subsec. (i)(2)(D). Pub. L. 89-97, § 303(b)(1), designated the fourth sentence as subpar. (D), substituted "the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases" for "the close of the last day of the month preceding which of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases."

Subsec. (i)(2)(E). Pub. L. 89-97, § 303(b)(1), designated the fifth sentence as subpar. (E), substituted "12 months" for "three months" and "after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph)" for "before the first day on which a period of disability can begin (as determined under this paragraph), or, in any case in which clause (ii) of section 423(a)(1) of this title is applicable, more than six months before the first month for which such applicant becomes entitled to benefits under section 423 of this title,", and deleted ", and no such application which is filed prior to January 1, 1955, shall be accepted" following "for purposes of this paragraph."

Subsec. (i)(2)(F). Pub. L. 89-97, § 328(b), added subpar. (F).

Subsec. (i)(3). Pub. L. 89-97, §§ 303(b)(2), 344(a) substituted "clauses (i) and (ii) of paragraph (2)(C)" for "clauses (A) and (B) of paragraph (2)"; and removal from existing subpar. (B) provision prohibiting the inclusion, as part of such 40-quarter period, of any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage, and designated such subpar., as so amended, as subpar. (B)(i), added subpar. (B)(ii), and, in the material following subpar. (B)(ii), added provision prohibiting inclusion of any quarter as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number, respectively.

1964—Subsec. (i)(2). Pub. L. 88-650, § 1(a), eliminated provisions which directed that a period of disability shall begin if the individual satisfies the requirements of par. (3) of this subsection on such day, on the first day of the eighteen-month period which ends with the day before the day on which the individual files such application.

Subsec. (i)(3). Pub. L. 88-650, § 1(b), substituted "paragraph (2) of this subsection" for "paragraphs (2) and (4) of this subsection."

Subsec. (i)(4). Pub. L. 88-650, § 1(c), repealed subsec. (i)(4) which related to the beginning of the period of disability for individuals who filed an application for a disability determination after Dec. 1954, and before July 1962, with respect to a disability which began before January 1961.

1961—Subsec. (a). Pub. L. 87-64, § 102(c)(1), repealed subsec. (a) which defined retirement age.

Subsec. (b). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (c). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (f). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (g). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (i)(2). Pub. L. 87-64, § 102(b)(2)(D), substituted "a period of disability shall (subject to section 423(a)(3) of this title) begin" for "a period of disability shall begin" in the third sentence.

Subsec. (i)(3)(A). Pub. L. 87-64, § 102(c)(3)(C), substituted "attainment age 62 (if a woman) or age 65 (if a man)" for "attained retirement age."

Subsec. (i)(4). Pub. L. 87-64, § 105, substituted "July 1962" for "July 1961", and "January 1961" for "July 1960."

1960—Subsec. (b). Pub. L. 86-778, § 207(a), substituted "one year" for "three years."

Subsec. (e). Pub. L. 86-778, §§ 207(b), 208(c), in the first sentence, reduced the period for eligibility of a stepchild of a living individual from three years immediately preceding the day on which application for child's benefits is filed to one year immediately preceding the day on which application for child's benefits is filed, and inserted the last sentence requiring, for purposes of clause (2), that a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsec. (h)(1)(B) of this section, would have been a valid marriage.

Subsec. (f). Pub. L. 86-778, § 207(c), substituted "one year" for "three years."

Subsec. (h)(1). Pub. L. 86-778, § 208(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h)(2). Pub. L. 86-778, § 208(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (i)(2). Pub. L. 86-778, §§ 402(e), 403(c), redefined the term "period of disability" to include a period of less than six full calendar months' duration if the individual was entitled to benefits under section 423 of this title for one or more months in such period, prohibited acceptance of an application, in any case in which clause (ii) of section 423(a) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under section 423 of this title. substituted provisions requiring a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age 65 or the third month following the month in which the disability ceases, for provisions which required a period of disability to end with the close of the last day of the first month in which either the disability ceases or the individual attains the age of 65, and inserted sentence providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be.

Subsec. (j). Pub. L. 86-778, § 703, added subsec. (j).

1958—Subsec. (b). Pub. L. 85-840, § 301(d), included within the definition of "wife" a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (c). Pub. L. 85-840, § 301(b)(2) included within the definition of "widow" a woman whose husband had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, and a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (d). Pub. L. 85-840, § 301(e), included within the definition of "former wife divorced" a woman whose husband legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen.

Subsec. (e). Pub. L. 85–840, § 302(a), eliminated the requirement that an adopted child of a living individual must have been adopted for not less than three years immediately preceding the day on which application for child's benefits is filed, and inserted provisions requiring a child to be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if the child was living in the decedent's household at the time of his death and was legally adopted by the surviving spouse after the individual's death but before the end of two years after the day on which the individual died or Aug. 28, 1958, and the child was not receiving regular contributions toward his support from someone other than the individual or his spouse, or from any public or private welfare organization.

Subsec. (f). Pub. L. 85–840, § 301(a)(2), included within the definition of "husband" a person who in the month prior to the month of his marriage was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or who had attained age eighteen and was entitled to, or on application therefor would have been entitled to benefits under subsection (d) of section 402 of this title.

Subsec. (g). Pub. L. 85–840, § 301(c)(2), included within the definition of "widower" a person whose wife had legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, and a person who, in the month before the month of his marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (h)(3). Pub. L. 85–840, § 305(b), repealed subsec. (h)(3), which defined "living with" for purposes of section 402(i) of this title.

Subsec. (i)(2). Pub. L. 85–840, § 201, substituted "while under such disability" for "while under a disability" in the opening provisions, and "eighteen-month period" for "one-year period" in cl. (A)(ii).

Subsec. (i)(3). Pub. L. 85–840, § 204(a), eliminated provisions that required, for a period of disability to begin with respect to any quarter, an individual to have not less than six quarters of coverage during the thirteen-quarter period which ends with such quarter, and inserted provisions requiring an individual to be fully insured.

Subsec. (i)(4). Pub. L. 85–840, § 203, substituted "July 1961" for "July 1958" and "July 1960" for "July 1957", and eliminated provisions which required the applicant to be alive on July 1, 1955.

1957—Subsec. (h). Pub. L. 85–238, amended subsec. (h) generally to provide that the applicant is the wife, husband, widow, or widower if there is a finding that the applicant and the insured individual were validly married at the time the application for benefits is filed, or at the time the insured individual died, and to eliminate provisions which prescribed certain conditions under which a wife or husband would be deemed to have been living with his or her spouse, and which related to determination of status of parent.

Subsec. (i)(4). Pub. L. 85–109, substituted "July 1958" for "July 1957" and "July 1957" for "July 1956".

1956—Subsec. (a). Act Aug. 1, 1956, § 102(a), reduced the retirement age in the case of a woman from age sixty-five to age sixty-two.

Subsec. (i)(1). Act Aug. 1, 1956, § 103(c)(6), inserted "Except for purposes of sections 402(d), 423, and 425 of this title".

Subsec. (i)(2). Act Aug. 1, 1956, § 102(d)(12), substituted "the age of sixty-five" for "retirement age" in two instances.

1954—Subsec. (i). Act Sept. 1, 1954, § 106(d), added subsec. (i). Former subsec. (i), which was added by act July 18, 1952, § 3(d), ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

1952—Subsec. (i). Act July 18, 1952, added subsec. (i).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 105(c) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [which deleted "and he is under a disability by reason of blindness (as defined in paragraph (1)" from subsec. (i)(3)(B)(ii) of this section] shall apply only with respect to applications for disability determinations filed under section 216(i) of the Social Security Act [subsec. (i) of this section] in or after the month in which this Act is enacted [Jan. 1968]. The amendments made by subsection (b) [to section 423-(c)(1)(B)(ii) of this title] shall apply with respect to monthly benefits under title II of such Act [this subchapter] for months after January 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 111(b) of Pub. L. 90–248 provided that: "No monthly insurance benefits under title II of the Social Security Act [this subchapter] shall be payable or increased for any month before the month in which this Act is enacted [Jan. 1968] by reason of amendments made by subsection (a) [to subsec. (i)(2) of this section]."

Section 150(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to subsec. (e) of this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of an application filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 156(e) of Pub. L. 90–248 provided that: "The amendments made by this section [enacting subsec. (k) of this section and amending subsecs. (c)(5), (e) and (g) of this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [Jan. 1968]."

Section 172(c) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsec. (i)(1) of this section] shall be effective with respect to benefits under section 223 of the Social Security Act [section 423 of this title] for months after January 1968 based on applications filed after the date of enactment of this Act [Jan. 2, 1958] and with respect to disability determinations under section 216(i) of the Social Security Act [subsec. (i) of this section] based on applications filed after the date of enactment of this Act [Jan. 2, 1968]."

Amendment of subsec. (i)(1) of this section by section 158(d) of Pub. L. 90–248 applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under subsec. (i) of this section, see section 158(e) of Pub. L. 90–248, set out as a note under section 423 of this title.

Amendment of subsec. (i)(1) of this section by section 104 of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90–248, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsecs. (b)—(d) of this section by Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Amendment of subsecs. (b), (c), (f) and (g) of this section by section 334 of Pub. L. 89–97 applicable only with respect to monthly insurance benefits under section 401 et seq. of this title beginning with September 1965 but only on the basis of applications filed in or after July 1965, see section 334(g) of Pub. L. 89–97, set out as a note under section 402 of this title.

Section 339(c) of Pub. L. 89–97 provided that: "The amendments made by subsections (a) and (b) [to subsec. (h)(3) of this section and section 402(d)(3) of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following

the month in which this Act is enacted [July 1965] but only on the basis of an application filed in or after the month in which this Act is enacted [July 1965]."

Amendment of subsec. (i) (1)(A), (2) of this section by Pub. L. 89-97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for disability determinations under subsec. (i) of this section, filed in or after July 1965 or before July 1965, if the applicant has not died before such month, and notice of final administrative decision has not been given to the applicant before such month, except that monthly insurance benefits under this subchapter shall not be payable or increased by reason of amendments to subsecs. (i) (1)(A), (2), (3) of this section for months before the second month following July 1965, see section 303 (f)(1) of Pub. L. 89-97, set out as a note under section 423 of this title.

Amendment of subsec. (i)(2) by section 304 of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89-97, set out as a note under section 402 of this title.

Section 328(d) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (i)(2)(F) of this section and sections 402(j)(2) and 423(b) of this title] shall apply with respect to (1) applications filed on or after the date of enactment of this Act [July 30, 1965], (2) applications as to which the Secretary has not made a final decision before the date of enactment of this Act [July 30, 1965], and (3) if a civil action with respect to final decision by the Secretary has been commenced under section 205(g) of the Social Security Act [section 405(g) of this title] before the date of enactment of this Act [July 30, 1965], applications as to which there has been no final judicial decision before the date of enactment of this Act [July 30, 1965]."

Section 344(e) of Pub. L. 89-97 provided that: "The amendments made by this section [to subsec. (i)(3) of this section and section 423 (a)(1), (c)(1), and (c)(2)(B) of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the first month following the month in which this Act is enacted [July 1965], on the basis of applications for such benefits filed in or after the month in which this Act is enacted [July 1965]."

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(d) of Pub. L. 88-650 provided that:

"(1) The amendments made by subsections (a), (b), and (c) [to subsec. (i) of this section] shall apply in the case of applications for disability determinations under section 216(i) of the Social Security Act [subsec. (i) of this section] filed after the month following the month in which this Act is enacted [Oct. 1964].

"(2) Except as provided in the succeeding paragraphs, such amendments shall also apply, and as though such amendments had been enacted on July 1, 1962, in the case of applications for disability determinations filed under section 216(i) of the Social Security Act [subsec. (i) of this section] during the period beginning July 1, 1962, and ending with the close of the month following the month in which this Act is enacted [Oct. 1964], by an individual who—

"(A) has been under a disability (as defined in such section 216(i) [subsec. (i) of this section]) continuously since he filed such application and up to (i) the first day of the second month following the month in which this Act is enacted [Oct. 1964] or (ii) if earlier, the first day of the month in which he attained the age of 65, and

"(B) is living on the day specified in subparagraph (A)(i).

"(3) In the case of an individual to whom paragraph (2) applies and who filed an application for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] during the period specified in such paragraph—

"(A) if such individual was under a disability (as defined in section 223(c) of such Act [section 423(c) of this title]) throughout such period and was not entitled to disability insurance benefits under such section 223 [section 423 of this title] for any month in such period (except for the amendments made by this section), such application and any application filed during such period for benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of the wages and self-employment income of such individual shall, notwithstanding section 202(j)(2) [section 402 (j)(2) of this title] and the first sentence of section 223(b) [section 423(b) of this title], be deemed an effective application, or

"(B) if such individual was entitled (without the application of this section) to disability insurance benefits under section 223 [section 423 of this title] for a continuous period of months immediately preceding—

"(i) the second month following the month in which this Act was enacted [Oct. 1964], or

"(ii) if earlier, the month in which he became entitled to benefits under section 202(a) [section 402(a) of this title],

his primary insurance amount shall be recomputed, but only if such amount would be increased solely by reason of the enactment of this section.

"(4) No monthly insurance benefits, and no increase in monthly insurance benefits, may be paid under title II of the Social Security Act [this subchapter] by reason of the enactment of this section for any month before the eleventh month before the month in which this Act is enacted [Oct. 1964].

"(5) In the case of an individual (A) who is entitled under section 202 of the Social Security Act [section 402 of this title] (but without the application of subsection (j)(1) of such section) to a widow's, widower's, or parent's insurance benefit, or to an old-age, wife's or husband's insurance benefit which is reduced under section 202(q) of such Act [section 402(q) of this title], for any month in the period referred to in paragraph (2) of this subsection, (B) who was under a disability (as defined in section 223(c) of the Social Security Act [section 423(c) of this title]) which began prior to the sixth month before the first month for which the benefits referred to in clause (A) are payable and which continued through the month following the month in which this Act is enacted [Oct. 1964], and (C) who files an application for disability insurance benefits under section 223(a)(1) of the Social Security Act [section 423(a) of this title]—

"(i) subsection (a)(3) of section 223 of the Social Security Act [section 423(a)(1) of this title] shall not prevent him from being entitled to such disability insurance benefits;

"(ii) the provisions of subsection (a)(1) of such section 223 [section 423(a)(1) of this title] terminating entitlement to disability insurance benefits by reason of entitlement to old-age insurance benefits shall not apply with respect to him unless and until he again becomes entitled to such old-age insurance benefits under the provisions of section 202 of such Act [section 402 of this title];

"(iii) such individual shall, for any month for which he is thereby entitled to both old-age insurance benefits and disability insurance benefits, be entitled only to such disability insurance benefits; and

"(iv) in case the benefits reduced under subsection (q) of section 202 of such Act [section 402(q) of this title] are old-age insurance benefits (I) such old-age insurance benefits for the months in the period referred to in paragraph (2) of this subsection shall not be recomputed solely by reason of the enactment of this section, and, if otherwise recomputed, the provisions of and amendments made by this section shall not apply to such recomputation; and (II) the months for which he received such old-age insurance benefits before or during the period for which he becomes entitled, by reason of such enactment, to disability insurance benefits under such section 223 [section 423 of this title] and the months for which he received such disability insurance benefits shall be excluded from the "reduction period" and the "adjusted reduction period", as defined in paragraphs (5) and (6), respectively, of such subsection (q) for purposes of determining the amount of the old-age insurance benefits to which he may subsequently become entitled.

"(6) The entitlement of any individual to benefits under section 202 of the Social Security Act [section 402 of this title] shall not be terminated solely by reason of the enactment of this section, except where such individual is entitled to benefits under section 202(a) or 223 of such Act [sections 402(a) or 423 of this title] in an amount which (but for this subsection) would have required termination of such benefits under such section 202 [sections 402(a) or 423 of this title].

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsecs. (b), (c), (f), (g), and (i)(3)(A) of this section, and repeal of subsec. (a) of this section applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Amendment of subsec. (i)(2) of this section by Pub. L. 87-64 effective August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Section 105 of Pub. L. 87-64 provided in part that the amendment of subsec. (i)(4) of this section by Pub. L. 87-64 shall be effective with respect to applications for disability determinations filed on or after July 1, 1961.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 207(d) of Pub L. 86-778 provided that: "The amendments made by this section [to subsecs. (b) and (f) of this section and to the first sentence of subsec. (e) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning with the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month."

Section 208(f) of Pub. L. 86-778 provided that: "The amendments made by the preceding provisions of this section [amending subsecs. (h)(1) and (h)(2) of this section, adding sentence following section 402(d)(3)(B) of this title, and adding the last sentence to subsec. (e) of this section] shall be applicable (1) with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [Sept. 1960] on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under such title [this subchapter] based on an application filed in or after such month, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under such title [this subchapter] prior to the date of the enactment of this Act [Sept. 13, 1960] with respect to the death of the same individual."

Amendment of subsec. (i)(2) of this section by section 402(e) of Pub. L. 86-778, which redefined the term "period of disability" and inserted provisions relating to the acceptance of applications and providing that any application for a disability determination which is filed within the three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, applicable only in the case of individuals who become entitled to benefits under section 423 of this title in or after Sept. 1960, see section 402(f) of Pub. L. 86-778, set out as a note under section 423 of this title.

Amendment of subsec. (i)(2) of this section by section 403(c) of Pub. L. 86-778, which required a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases, applicable only in the case of individuals who have a period of disability (as defined in subsec. (i) of this section) beginning on or after Sept 13, 1960, or beginning before Sept. 13, 1960 and continuing, without regard to such amendment, beyond the end of Sept. 1960, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of susbecs. (b)—(d), (f) and (g) of this section by Pub. L. 85-840 applicable with respect to monthly benefits under section 402 of this title for months beginning after Aug. 28, 1958, but only if an application for such benefits is filed on or after such date, see section 301 (f) of Pub. L. 85-840, set out as a note under section 402 of this title.

Section 302 (b) of Pub. L. 85-840 provided that: "The amendment made by this section [to subsec. (e) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Repeal of subsec. (h) (3) of this section by section 305 (b) of Pub. L. 85-840 applicable in the case of lump-sum death payments under section 402 (i) of this title on the basis of the wages and self-employment income of any individual who dies after August 1958, see section 305 (c) of Pub. L. 85-840, set out as a note under section 402 of this title.

Section 207 (a) of Pub. L. 85-840 provided that: "The amendments made by section 201 [to subsec. (i) (2) of this section] shall apply with respect to applications for a disability determination under section 216 (i) of the Social Security Act [subsec. (i) of this section] filed after June 1961. The amendments made by section 202 [to subsecs. (b) and (c) (3) of section 423 of this title] shall apply with respect to applications for disability insurance benefits under section 223 of such Act [section 423 of this title] filed after December 1957. The amendments made by section 203 [to subsec. (i) (4) of this section] shall apply with respect to applications for a disability determination under such section 216 (i) [subsec. (i) of this section] filed after June 1958. The amendments made by section 204 [to subsec. (i) (3) of this section and section 423 (c) (1) (A) of this title] shall apply with respect to (1) applications for disability insurance benefits under such section 223 [section 423 of this title] or for a disability determination under such section 216 (i) [subsec. (i) of this section] filed on or after the date of enactment of this Act [August 28, 1958], and (2) applications for such benefits or for such a determination filed after 1957 and prior to such date of enactment [August 28, 1958] if the applicant has not died prior to such date of enactment [August 28, 1958] and if notice to the applicant of the Secretary's decision with respect thereto has not been given to him on or prior to such date, except that (A) no benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] or any prior month shall be payable or increased by reason of the amendments made by section 204 of this Act, and (B) the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title] shall not prevent recomputation of monthly benefits under section 202 of such Act [section 402 of this title] (but no such recomputation shall be regarded as a recomputation for purposes of section 215 (f) of such Act [section 415 (f) of this title]). The amendments made by section 205 (other than by subsections (k) and (m)) [to sections 401 (h), 402 (b), (c) (1), (d) (1), (f) (1) (D), (g) (1) (F), (h) (1) (B), (k), (g) (5), (6), 403 (3), 414 (b), 422 (b) (3), and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [August 1958], but only if an application for such benefits is filed on or after the date of enactment of this Act [August 28, 1958]. The amendments made by section 206 [repealing section 424 of this title] and by subsections (k) and (m) of section 205 [to sections 403 (h) and 415 (g) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] and succeeding months."

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment of subsec. (h) of this section by Pub. L. 85-238 applicable to monthly benefits under section 402 of this title for months after August 1957, see section 3 (i) of Pub. L. 85-238, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 102 (b) of act Aug. 1, 1956, provided that:

"(1) The amendment made by subsection (a) [to subsec. (a) of this section] shall apply in the case of benefits under subsection (e) of section 202 of the Social Security Act [section 402 (e) of this title] for months after October 1956, but only, except in the case of an individual who was entitled to wife's or mother's insurance benefits under such section 202 [section 402 of this title] for October 1956, or any month thereafter, on the basis of applications filed after the date of enactment of this Act [August 1, 1956]. The amendment made by subsection (a) shall apply in the case of benefits under subsection (h) of such section 202 [section 402 (h) of this title] for months after October 1956 on the basis of applications filed after the date of enactment of this Act [August 1, 1956].

"(2) Except as provided in paragraphs (1) and (4), the amendment made by subsection (a) shall apply in the case of lump-sum death payments under section 202 (i) of the Social Security Act [section 402 (i) of this title] with respect to deaths after October 1956, and in the case of monthly benefits under title II of such Act [this subchapter] for months after October 1956 on the basis of applications filed after the date of enactment of this Act [August 1, 1956].

"(3) For purposes of section 215 (b) (3) (B) of the Social Security Act [section 415 (b) (3) (B) of this title] (but subject to paragraphs (1) and (2) of this subsection)—

"(A) a woman who attains the age of sixty-two prior to November 1956 and who was not eligible for old-age insurance benefits under section 202 of such Act [section 402 of this title] (as in effect prior to the enactment of this Act [August 1, 1956]) for any month prior to November 1956 shall be deemed to have attained the age of sixty-two in 1956 or, if earlier, the year in which she died;

"(B) a woman shall not, by reason of the amendment made by subsection (a), be deemed to be a fully insured individual before November 1956 or the month in which she died, whichever month is the earlier; and

"(C) the amendment made by subsection (a) shall not be applicable in the case of any woman who was eligible for old-age insurance benefits under such section 202 [section 402 of this title] for any month prior to November 1956.

A woman shall, for purposes of this paragraph, be deemed eligible for old-age insurance benefits under section 202 of the Social Security Act [Section 402 of this title] for any month if she was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

"(4) For purposes of section 209 (i) of such Act [section 409 (i) of this title], the amendment made by subsection (a) shall apply only with respect to remuneration paid after October 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsec. (i) made by section 106 (d) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

For effective and termination date, see note set out under section 413 of this title.

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see note set out under section 409 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

DEFINITION OF "SECRETARY"

Section 114 of act Sept. 1, 1954, provided that: "As used in the provisions of the Social Security Act [sections 402, 403, 415 and 421 of this title] amended by this title, the term 'Secretary' means the Secretary of Health, Education, and Welfare."

Section 119 of act Aug. 1, 1956, ch. 836, provided that: "As used in this Act and in the provisions of the Social Security Act set forth in this Act [sections 401a, 402 (p), (q), (t), (u), 405 (b), (c) (5) (J), 421 (e), 422, 424, 425, 906 and 1310 of this title], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

BENEFITS OF PARENTS

Amendment of subsec. (h) (1) of this section by Pub. L. 85–238 not operative to deprive any parent of benefits to which he would otherwise be entitled under section 402 (h) of this title, see section 3 (i) (2) of Pub. L. 85–238, set out as a note under section 402 of this title.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Section 404 of Pub. L. 86–778 provided that:

"(a) In the case of any individual who does not meet the requirements of section 216(i)(3) of the Social Security Act [subsec. (i)(3) of this section] with respect to any quarter, or who is not insured for disability insurance benefits as determined under section 223(c)(1) of such Act [section 423(c)(1) of this title] with respect to any month in a quarter, such individual shall be deemed to have met such requirements with respect to such quarter or to be so insured with respect to such month of such quarter, as the case may be, if—

"(1) he had a total of not less than twenty quarters of coverage (as defined in section 213 of such Act [section 413 of this title]) during the period ending with the close of such quarter, and

"(2) all of the quarters elapsing after 1950 and up to but excluding such quarter were quarters of coverage with respect to him and there were not fewer than six such quarters of coverage.

"(b) Subsection (a) shall apply only in the case of applications for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title], or for disability determinations under section 216(i) of such Act [subsec. (i) of this section], filed in or after the month in which this Act is enacted [Sept. 1960], and then only with respect to an individual who, but for such subsection (a), would not meet the requirements for a period of disability under section 216(i) [subsec. (i) of this section] with respect to the quarter in which this Act is enacted or any prior quarter and would not meet the requirements for benefits under section 223 [section 423 of this title] with respect to the month in which this Act is enacted [Sept. 1960] or any prior month. No benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [Sept. 1960] or any prior month shall be payable or increased by reason of the amendment made by such subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 413, 414, 417, 421, 422, 423, 428, 429, 1395ii of this title; title 5 section 8311; title 20 section 880b–2; title 45 sections 228c and 228e.

§ 417. Benefits for veterans; definitions; determination of benefits.

(a) (1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after August 1950, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employ-

ment income of any World War II veteran, and for purposes of section 416 (i) (3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of $160 in each month during any part of which he served in the active military or naval service of the United States during World War II. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran during World War II is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to section 415 (f) of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416 (i) (3) of this title.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran during World War II, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service during World War II shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(b) (1) Any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 415 (c) of this title. Notwithstanding section 415 (d) of this title, the primary insurance benefit (for purposes of section 415 (c) of this title) of such veteran shall be determined as provided in this subchapter as in effect prior to August 28, 1950, except that the 1 per centum addition provided for in section 409 (e) (2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application;

(B) any pension or compensation is determined by the Veterans' Administration to be payable by it on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

(2) Upon an application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to paragraph (1) (B) of this subsection unless he has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such veteran. The Secretary of Health, Education, and Welfare shall thereupon report such decision to the Veterans' Administration. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, it shall notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Secretary of Health, Education, and Welfare on the basis of paragraph (1) of this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of section 3101 of Title 38) be deemed to have been paid to him by such Administration on account of such accrued pension or compensation. No such payment certified by the Secretary of Health, Education, and Welfare, and no payment certified by him for any month prior to

the first month for which any pension or compensation is paid by the Veterans' Administration shall be deemed by reason of this subsection to have been an erroneous payment.

(c) In the case of any World War II veteran to whom subsection (a) of this section is applicable, proof of support required under section 402 (h) of this title may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

(d) For the purposes of this section—

(1) The term "World War II" means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term "World War II veteran" means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(e) (1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this subchapter on the basis of wages and self-employment income of any veteran (as defined in paragraph (4) of this subsection), and for purposes of section 416 (i) (3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of $160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of section 415 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416 (i) (3) of this title. In the case of monthly benefits under this subchapter for months after December 1956 (and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 410(*l*)(1) of this title are applicable, wages which would, but for the provisions of clause (B) of this paragraph, be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to January 1, 1957, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to January 1, 1957, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability

or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) (1) In any case where a World War II veteran (as defined in subsection (d) (2) of this section) or a veteran (as defined in subsection (e) (4) of this section) has died or shall hereafter die, and his widow or child is entitled under subchapter III of chapter 83 of Title 5; to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a) (1) of this section or clause (B) of subsection (e) (1) of this section shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 402 of this title which is based on his wages and self-employment income; except that no such widow or child shall be entitled under section 402 of this title to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such widow or child under such subchapter III, on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a widow waives her right to receive such annuity such waiver shall constitute a waiver on her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the widow and all children, or, if there is no widow, all the children, waive their rights to receive annuities under subchapter III of chapter 83 of Title 5, based on such veteran's military or civilian service.

(g) (1) In September 1965, and in every fifth September thereafter up to and including September 2010, the Secretary shall determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning—

(A) with July 1, 1965, in the case of the first such determination, and

(B) with the July 1 following the determination in the case of all other such determinations,

and ending with the close of June 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of June 30, 2015, as he estimates they would otherwise be in at the close of that date if section 410 of this title as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted. The rate of interest to be used in determining such amount shall be the rate determined under section 401(d) of this title for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which such determination is made.

(2) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund—

(A) for the fiscal year ending June 30, 1966, an amount equal to the amount determined under paragraph (1) of this subsection in September 1965, and

(B) for each fiscal year in the period beginning with July 1, 1966, and ending with the close of June 30, 2015, an amount equal to the annual installment for such fiscal year under the most recent determination under paragraph (1) of this subsection which precedes such fiscal year.

(3) For the fiscal year ending June 30, 2016, there is authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position in which they would have been at the close of June 30, 2015, if section 410 of this title as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted.

(4) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund annually, as benefits under this subchapter and part A of subchapter XVIII of this chapter are paid after June 30, 2015, such sums as the Secretary determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e) of this section, of such benefits (including lump-sum death payments).

(h) (1) For the purposes of this section, any individual who the Secretary finds—

(A) served during World War II (as defined in subsection (d) (1) of this section) in the active military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E) (i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d) (2) of this section) and

such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 402 (f) or (h) of this title may be filed at any time prior to the expiration of two years after the date of such individual's death or August 28, 1958, whichever is the later. (Aug. 14, 1935, ch. 531, title II, § 217, as added Aug. 28, 1950, ch. 809, title I, § 105, 64 Stat. 512, and amended July 18, 1952, ch. 945, § 5 (a), (d) (1), 66 Stat. 773, 775; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 14, 1953, ch. 483, § 1, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, § 106 (e), 68 Stat. 1081; Aug. 9, 1955, ch. 685, § 1, 69 Stat. 621; Aug. 1, 1956, ch. 837, title IV, §§ 404 (a), (b), 406, 70 Stat. 872, 875; Aug. 28, 1958, Pub. L. 85–840, title III, § 314 (a), (b), 72 Stat. 1036; Sept. 2, 1958, Pub. L. 85–857, § 13 (i) (2), 72 Stat. 1265; Sept. 13, 1960, Pub. L. 86–778, title I, § 103(j)(2)(c), 74 Stat. 937; July 30, 1965, Pub. L. 89–97, title III, § 322, 79 Stat. 396; Jan. 2, 1968, Pub. L. 90–248, title IV, § 403(c), 81 Stat. 932.)

REFERENCES IN TEXT

For Social Security Act Amendments of 1950, referred to in subsec. (g), see Short Title note under section 301 of this title.

AMENDMENTS

1968—Subsec. (f)(1). Pub. L. 90–248, § 403(c)(1), substituted "subchapter III of chapter 83 of Title 5" and "such subchapter III" for "the Civil Service Retirement Act of May 29, 1930, as amended," and "such Act of May 29, 1930, as amended,", respectively.

Subsec. (f)(2). Pub. L. 90–248, § 403(c)(2), substituted "subchapter III of chapter 83 of Title 5" for "the Civil Service Retirement Act of May 29, 1930, as amended."

1965—Subsec. (g)(1). Pub. L. 89–97 substituted provisions requiring the Secretary to determine, in September 1965, and every fifth September thereafter, up to and including September 2010, the amount necessary to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of June 30, 2015, as they would otherwise have been in at the close of that date if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and this section had not been enacted and providing for determination of interest in accordance with section 401 (d) of this title, for provisions authorizing the appropriation of sums necessary to meet additional costs resulting from payment of benefits after June 1956 under subsecs. (a), (b), and (e), including lump-sum death payments.

Subsec. (g)(2). Pub. L. 89–97 substituted provisions authorizing appropriation to the Trust Funds and the Federal Hospital Insurance Trust Fund in the fiscal years ending with the close of June 30, 2015, for provisions requiring the Secretary to determine before October 1, 1958, the amount necessary to place the Federal Old-Age and Survivors Insurance Trust Fund in the same position it would have been at the close of June 30, 1956, if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and this section had not been enacted and authorizing appropriations during the first ten years beginning after such determination had been made aggregating the sum so determined plus interest.

Subsec. (g) (3), (4). Pub. L. 89–97 added pars. (3) and (4).

1960—Subsec. (e)(1). Pub. L. 86–778 substituted "section 410(*l*)(1) of this title" for "section 410(m)(1) of this title."

1958—Subsec. (b)(2). Pub. L. 85–857, substituted "section 3101 of Title 38" for "section 454a of Title 38".

Subsec. (g). Pub. L. 85–840, § 314(b), substituted "Trust Funds" for "Trust Fund" in par. (1), and "the Federal Old-Age and Survivors Insurance Trust Fund in" for "the Trust Fund in", "such Trust Fund annually", for "the Trust Fund annually", and "such Trust Fund during" for "the Trust Fund during", in par. (2).

Subsec. (h). Pub. L. 85–840, § 314(a), added subsec. (h).

1956—Subsec. (e). Act Aug. 1, 1956, ch. 837, § 404(a), substituted "January 1, 1957" for "April 1, 1956" in five instances, and inserted provisions in par. (1) relating to monthly benefits for months after December 1956 and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956.

Subsecs. (f), (g). Act Aug. 1, 1956, ch. 837, §§ 404(b) and 406, added subsecs. (f) and (g), respectively.

1955—Subsec. (e). Act Aug. 9, 1955, substituted "April 1, 1956" for "July 1, 1955" wherever appearing.

1954—Subsec. (a)(1). Act Sept. 1, 1954, § 106(e) (1), (3), added in the first sentence after "World War II veteran" the words "and for purposes of section 416(i)(3) of this title", and added a new sentence at the end.

Subsec. (e)(1). Act Sept. 1, 1954, § 106(e) (2), (3), added after "veteran (as defined in paragraph (4) of this subsection)" the words "and for purposes of section 416 (i) (3) of this title" and added a new sentence at the end.

1953—Subsec. (e). Act Aug. 14, 1953, substituted "July 1, 1955" for "January 1, 1954" wherever appearing.

1952—Act July 18, 1952, § 5(a), eliminated reference to World War II veterans in the catchline.

Subsec. (a)(1)(B). Act July 5, 1952, § 5(d)(1), added "The provision of * * * payment is based."

Subsec. (e). Act July 18, 1952, § 5(a), added subsec. (e).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (e)(1) of this section by Pub. L. 86–778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (b) (2) by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

Section 314 (c) (1) of Pub. L. 85–840 provided that: "The amendment made by subsection (a) [adding subsec. (h) of this section] shall apply only with respect to (A) monthly benefits under sections 202 and 223 of the Social Security Act [sections 402 and 403 of this title] for months after the month in which this Act is enacted [August 1958], (B) lump-sum death payments under such section 202 [section 402 of this title] in the case of deaths occurring after the month in which this Act is enacted [August 1958], and (C) periods of disability under section 216 (i) [section 416 (i) of this title] in the case of applications for a disability determination filed after the month in which this Act is enacted [August 1958]."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 404 (d) of act Aug. 1, 1956, ch. 837, provided that: "Except for the last sentence of section 217 (e) (1) of the Social Security Act as amended by subsection (a) of this section [subsec. (e) (1) of this section], the amendments made by such subsection (a) [to subsecs. (e) and (f) of this section] shall be effective as though they had been enacted on March 31, 1956. Such last sentence of section 217 (e) (1) of the Social Security Act shall become effective January 1, 1957."

Subsec. (g) effective Jan. 1, 1957.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsecs. (a) (1) and (e) (1) made by section 106(e) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 5(c) of act of July 18, 1952, as amended by Pub. L. 86–778, title III, § 304(d), Sept. 13, 1960, 74 Stat. 966, provided that:

"(1) The amendments made by subsections (a) and (b) [to sections 417(e) and 405(o) of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months after August 1952, and with respect to lump-sum death payments in the case of deaths occurring after August 1952, except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 217(e) of the Social Security Act [subsec. (e) of this title] applies, to monthly benefits under such section 202 for August 1952 [section 402 of this title], such amendments shall apply (A) only if an application for recomputation by reason of such amendments is filed by such individual, or any other individual, entitled to benefits under such section 202 [section 402 of this title] on the basis of such wages and self-employment income, and (B) only with respect to such benefits for months after whichever of the following is the later: August 1952 or the seventh month before the month in which such application was filed. Recomputations of benefits as required to carry out the provisions of this paragraph shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title]; but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such act [section 415(f) of this title]. Notwithstanding the preceding provisions of this paragraph, the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in clause (A) of the first sentence of this paragraph prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961.

"(2) In the case of any veteran (as defined in section 217(e)(4) of the Social Security Act [subsec. (e)(4) of this section]) who died prior to September 1952, the requirement in subsections (f) and (h) of section 202 of the Social Security Act [section 402 (f), (h) of this title] that proof of support be filed within two years of the date of such death shall not apply if such proof is filed prior to September 1954."

Section 5 (d) (2) of act July 18, 1952, provided that: "The amendment made by paragraph (1) of this subsection [to subsec. (a) (1) (B) of this section] shall apply only in the case of applications for benefits under section 202 of the Social Security Act [section 402 of this title] filed after August 1952."

EFFECTIVE DATE

Section 105 of act Aug. 28, 1950, provided in part that this section shall be effective as of Sept. 1, 1950.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration, and all functions of the Survey, not already transferred by 1950 Reorg. Plan No. 5, were transferred to the Secretary of Commerce.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT OF CERTAIN INDIVIDUALS

Section 314 (c) (2) of Pub. L. 85–840 provided that: "In the case of any individual—

"(A) who is a World War II veteran (as defined in section 217 (d) (2) of the Social Security Act [subsec. (d) (2) of this section]) wholly or partly by reason of service described in section 217 (h) (1) (A) of such Act [subsec. (h) (1) (A) of this section]; and

"(B) who (i) became entitled to old-age insurance benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] or to disability insurance benefits under section 223 of such Act [section 423 of this title] prior to the first day of the month following the month in which this Act is enacted [August 1958], or (i) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted [August 1958], on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act [section 402 of this title]; and

"(C) any part of whose service described in section 217 (h) (1) (A) of the Social Security Act [subsec. (h) (1) (A) of this section] was not included in the computation of his primary insurance amount under section 215 of such Act [section 415 of this title] but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation.

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted [August 1958], by him or (if he has died without filing such an application) by any person entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act [section 415 (f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for the month in which this Act is enacted [August 1958] or any prior month."

RECOMPUTATION OF SOCIAL SECURITY BENEFITS OF WIDOWS AND CHILDREN WHO WAIVE RIGHT TO ANNUITY UNDER CIVIL SERVICE RETIREMENT ACT

Section 404 (c) of act Aug. 1, 1956, ch. 837, provided that:

"In the case of any deceased individual—

"(1) who is a World War II veteran (as defined in section 217 (d) (2) of the Social Security Act [subsec. (d) (2) of this section]) or a veteran (as defined in section 217 (e) (4) of such Act [subsec. (e) (4) of this section]); and

"(2) whose widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended [chapter 30 of Title 5, Executive Departments and Government Officers and Employees], to an annuity in the computation of which his active military or naval service after September 15, 1940, and before January 1, 1957, was included; and

"(3) whose widow or child is entitled under section 202 of the Social Security Act [section 402 of this title], on the basis of his wages and self-employment income, to a monthly benefit in the computation of which such active military or naval service was excluded (under clause (B) of subsection (a) (1) or (e) (1) of section 217 of such Act [this section]) solely by reason of the annuity described in the preceding paragraph; and

"(4) whose widow or child is entitled by reason of section 217 (f) of the Social Security Act [subsection (f) of this section] to have such active military or naval service included in the computation of such monthly benefit,

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by or on behalf of such widow or child. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of such individual's death, and as though application therefor was filed in the month in which he died. No recomputation made under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act [section 415 (f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for any month before the first month with respect to which such widow or child is entitled by reason of section 217 (f) of the Social Security Act [subsec. (f) of this section] to have such active military or naval service included in the computation of such monthly benefits. The terms used in this subsection shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85–840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85–840, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213, 405, 415, 429 of this title; title 20 section 880b–2; title 33 section 857; title 45 sections 228c–1, 228e.

§ 418. Voluntary agreements for coverage of State and local employees.

(a) Purpose of agreement.

(1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 410 (a) of this title, for the purposes of this subchapter the term "employment" includes any service included under an agreement entered into under this section.

(b) Definitions.

For the purposes of this section—

(1) The term "State" does not include the District of Columbia, Guam, or American Samoa.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employees would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Persons employed under section 709 of Title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this chapter, be employees of the State or the Commonwealth of Puerto Rico, and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 1624 of Title 7 or section 499n of Title 7, between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(c) Services covered.

(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraphs (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(B) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d) (3) of this section.

(4) The Secretary of Health, Education, and Welfare shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3)(B) of this subsection is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d)(3) of this section.

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 410(a) of this title other than paragraph (8) of such section and service the remuneration for which is excluded from wages by paragraph (2) of section 409(h) of this title.

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 410(k) of this title),

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 410 (a) of this title other than paragraph (8) of such section, and

(E) service performed by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3)(B) of this subsection is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d)(3) of this section), whichever may be desired by the State.

(8) Notwithstanding any other provision of this section, the agreement with any State entered into under this section may at the option of the State be modified on or after January 1, 1968, to exclude service performed by election officials or election workers if the remuneration paid in a calendar quarter for such service is less than $50. Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed after an effective date, specified in such modification, which shall not be earlier than the last day of the calendar quarter in which the modification is mailed or delivered by other means to the Secretary.

(d) Positions covered by retirement systems.

(1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on September 1, 1954 (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A) of this subsection). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A) of this subsection) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1) of this subsection, an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) of this subsection but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this subchapter to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this subchapter has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c)(3)(B) of this section).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this subchapter to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c) of this section, and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3)(B) of such subsection, such exclusion may not include any services to which such paragraph (3)(B) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) (A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the State may, for purposes of subsection (f) of this section only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Minnesota, Nevada, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after August 1, 1956, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement sys-

tem with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

(D) (i) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this subchapter.

(ii) Notwithstanding clause (i), the State may, pursuant to subsection (c) (4) (B) of this section and subject to the conditions of continuation or termination of coverage provided for in subsection (c) (7) of this section, modify its agreement under this section to include services performed by all individuals described in clause (i) other than those individuals to whose services the agreement already applies. Such individuals shall be deemed (on and after the effective date of the modification) to be in positions covered by the separate retirement system consisting of the positions of members of the division or part who desire coverage under the insurance system established under this subchapter.

(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8) of this subsection), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1970 or, if later, the expiration of two years after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer. Notwithstanding subsection (f) (1) of this section, any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part from grants made to such State under subchapter III of this chapter, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

(i) the positions of such employees;

(ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or

(iii) employees of such State covered by such retirement system who are employed in such department of such State in positions others than those referred to in clause (i).

(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) of this subsection shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Secretary of Health, Education, and Welfare that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was

given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) of this subsection shall not be considered a member of the retirement system.

(8) (A) Notwithstanding paragraph (1) of this subsection, if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

(D) Except in the case of agreements with the States named in subsection (p) of this section and agreements with interstate instrumentalities, nothing in this paragraph snall authorize the application of an agreement to service in any policeman's or fireman's position.

(e) Payments and reports by States; limitation on States' liability for contributions.

(1) Each agreement under this section shall provide—

(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may be regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 1400 and 1410 of Title 26, Internal Revenue Code of 1939, if the services of employees covered by the agreement constituted employment as defined in section 1426 of Title 26, Internal Revenue Code of 1939; and

(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section.

(2) Where—

(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1) (A) of this subsection which are equivalent to the taxes imposed by section 3111 of Title 26, Internal Revenue Code of 1954 with respect to wages paid to such individual for such services; and

(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A) (ii), for the payment of so much of such amounts as is attributable to employment by such subdivision or subdivisions;

then, notwithstanding paragraph (1) of this subsection, the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1) (A) of this subsection may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

(f) Effective date of agreement; retroactive coverage.

(1) Except as provided in subsection (e) (2), any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary and the State.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agree-

ment was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Secretary.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of services performed by individuals as members of any coverage group to which an agreement under this section is made applicable, and with respect to which there were timely paid in good faith to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of Title 26, Internal Revenue Code of 1954, had such services constituted employment for purposes of chapter 21 of Title 26, Internal Revenue Code of 1954, at the time they were performed, and with respect to which refunds were not obtained, such individuals may, if so requested by the State, be deemed to be members of such coverage group on the date designated pursuant to paragraph (2).

(g) Termination of agreement.

(1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar quarter specified in the notice, its agreement with the Secretary of Health, Education, and Welfare either—

(A) in its entirety, but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

(2) If the Secretary of Health, Education, and Welfare, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

(3) If any agreement entered into under this section is terminated in its entirety, the Secretary of Health, Education, and Welfare and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.

(h) Deposits in trust fund; adjustments.

(1) All amounts received by the Secretary of the Treasury under an agreement made pursuant to this section shall be deposited in the Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a)(3) of section 401 of this title, subsection (b)(1) of such section, and subsection (a)(1) of section 1395i of this title, respectively.

(2) If more or less than the correct amount due under an agreement made pursuant to this section is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be prescribed by regulations of the Secretary of Health, Education, and Welfare.

(3) If an overpayment cannot be adjusted under paragraph (2) of this subsection, the amount thereof and the time or times it is to be paid shall be certified by the Secretary of Health, Education, and Welfare to the Managing Trustee, and the Managing Trustee, through the Fiscal Service of the Treasury Department and prior to any action thereon by the General Accounting Office, shall make payment in accordance with such certification. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary of Health, Education, and Welfare.

(i) Regulations.

Regulations of the Secretary of Health, Education, and Welfare to carry out the purposes of this section shall be designed to make the requirements imposed on States pursuant to this section the same, so far as practicable, as those imposed on employers pursuant to this subchapter and subchapter A or E of chapter 9 of Title 26, Internal Revenue Code of 1939.

(j) Failure to make payments.

In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this chapter. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this chapter. Amounts equal to the amounts deducted under this subsection are appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h) (1) of this section.

(k) Instrumentalities of two or more States.

(1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this subchapter

to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after August 30, 1957) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d) (6) (C) of this section apply. The position of any employee of any such instrumentality which is covered by any retirement system to which the first sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on August 30, 1957, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this subchapter. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d) (6) of this section or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this chapter may, notwithstanding the provisions of subsection (d) (5) (A) of this section and the references thereto in subsections (d) (1) and (d) (3) of this section, apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3) of this section. For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(*l*) Delegation of functions.

The Secretary of Health, Education, and Welfare is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of his functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

(m) Wisconsin retirement fund.

(1) Notwithstanding paragraph (1) of subsection (d) of this section, the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

(n) Certain positions no longer covered by retirement systems.

Notwithstanding subsection (d) of this section, an agreement with any State entered into under this section prior to September 1, 1954 may, prior to January 1, 1958, be modified pursuant to subsection (c) (4) of this section so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on September 1, 1954), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage

group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

(*o*) Certain employees of the State of Utah.

Notwithstanding the provisions of subsection (d) of this section, the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c) (4) of this section so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950.

(p) Policemen and firemen in certain States.

(1) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Kansas, Maine, Maryland, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956, may, notwithstanding the provisions of subsection (d) (5) (A) of this section and the references thereto in subsection (d) (1) and (d) (3) of this section, be modified pursuant to subsection (c) (4) of this section to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d) (3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(2) A State, not otherwise listed by name in paragraph (1), shall be deemed to be a State listed in such paragraph for the purpose of extending coverage under this subchapter to service in firemen's positions covered by a retirement system, if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the overall benefit protection of the employees in such positions would be improved by reason of the extension of such coverage to such employees. Notwithstanding the provisions of the second sentence of such paragraph (1), such firemen's positions shall be deemed a separate retirement system and no other positions shall be included in such system.

(q) Time limitation on assessments.

(1) Where a State is liable for an amount due under an agreement pursuant to this section, such State shall remain so liable until the Secretary is satisfied that the amount due has been paid to the Secretary of the Treasury.

(2) Notwithstanding paragraph (1) of this subsection, a State shall not be liable for an amount due under an agreement pursuant to this section, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which such wages were paid, or

(B) three years after the date on which such amount became due, or

(C) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period the Secretary makes an assessment of the amount due.

(3) For purposes of this subsection and section 405(c) of this title, an assessment of an amount due is made when the Secretary mails or otherwise delivers to the State a notice stating the amount he has determined to be due under an agreement pursuant to this section and the basis for such determination.

(4) An assessment of an amount due made by the Secretary after the expiration of the period specified in paragraph (2) of this subsection shall nevertheless be deemed to have been made within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this paragraph, of such period as so extended), the State and the Secretary agree in writing to an extension of such period (or extended period) and, subject to such conditions as may be agreed upon, the Secretary makes the assessment prior to the expiration of such extension; or

(B) within the 365 days immediately preceding the expiration of such period (or extended period) the State pays to the Secretary of the Treasury less than the correct amount due under an agreement pursuant to this section with respect to wages paid to individuals in any calendar quarters as members of a coverage group, and the Secretary of Health, Education, and Welfare makes the assessment, adjusted to take into account the amount paid by the State, no later than the 365th day after the day the State made payment to the Secretary of the Treasury; but the Secretary of Health, Education, and Welfare shall make such assessment only with respect to the wages paid to such individuals in such calendar quarters as members of such coverage group; or

(C) pursuant to subparagraph (A) or (B) of section 405(c) (5) of this title he includes in his records an entry with respect to wages for an individual, but only if such assessment is limited to the amount due with respect to such wages and is made within the period such entry could be made in such records under such subparagraph.

(5) If the Secretary allows a claim for a credit or refund of an overpayment by a State under an agreement pursuant to this section, with respect to

wages paid or alleged to have been paid to an individual in a calendar year for services as a member of a coverage group, and if as a result of the facts on which such allowance is based there is an amount due from the State, with respect to wages paid to such individual in such calendar year for services performed as a member of a coverage group, for which amount the State is not liable by reason of paragraph (2) of this subsection, then notwithstanding paragraph (2) of this subsection the State shall be liable for such amount due if the Secretary makes an assessment of such amount due at the time of or prior to notification to the State of the allowance of such claim. For purposes of this paragraph and paragraph (6) of this subsection, interest as provided for in subsection (j) of this section shall not be included in determining the amount due.

(6) The Secretary shall accept wage reports filed by a State under an agreement pursuant to this section or regulations of the Secretary thereunder, after the expiration of the period specified in paragraph (2) of this subsection or such period as extended pursuant to paragraph (4) of this subsection, with respect to wages which are paid to individuals performing services as employees in a coverage group included in the agreement and for payment in connection with which the State is not liable by reason of paragraph (2) of this subsection, only if the State—

(A) pays to the Secretary of the Treasury the amount due under such agreement with respect to such wages, and

(B) agrees in writing with the Secretary of Health, Education, and Welfare to an extension of the period specified in paragraph (2) of this subsection with respect to wages paid to all individuals performing services as employees in such coverage group in the calendar quarters designated by the State in such wage reports as the periods in which such wages were paid. If the State so agrees, the period specified in paragraph (2) of this subsection, or such period as extended pursuant to paragraph (4) of this subsection, shall be extended until such time as the Secretary notifies the State that such wage reports have been accepted.

(7) Notwithstanding the preceding provisions of this subsection, where there is an amount due by a State under an agreement pursuant to this section and there has been a fraudulent attempt on the part of an officer or employee of the State or any political subdivision thereof to defeat or evade payment of such amount due, the State shall be liable for such amount due without regard to the provisions of paragraph (2) of this subsection, and the Secretary may make an assessment of such amount due at any time.

(r) Time limitation on credits and refunds.

(1) No credit or refund of an overpayment by a State under an agreement pursuant to this section with respect to wages paid or alleged to have been paid to an individual as a member of a coverage group in a calendar quarter shall be allowed after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which occurred the calendar quarter in which such wages were paid or alleged to have been paid, or

(B) three years after the date the payment which included such overpayment became due under such agreement with respect to the wages paid or alleged to have been paid to such individual as a member of such coverage group in such calendar quarter, or

(C) two years after such overpayment was made to the Secretary of the Treasury, or

(D) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period a claim for such credit or refund is filed with the Secretary of Health, Education, and Welfare by the State.

(2) A claim for a credit or refund filed by a State after the expiration of the period specified by paragraph (1) of this subsection shall nevertheless be deemed to have been filed within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this subparagraph, of such period as so extended) the State and the Secretary agree in writing to an extension of such period (or extended period) and the claim is filed with the Secretary by the State prior to the expiration of such extension; but any claim for a credit or refund valid because of this subparagraph shall be allowed only to the extent authorized by the conditions provided for in the agreement for such extension, or

(B) the Secretary delegates from his records an entry with respect to wages of an individual pursuant to the provisions of subparagraph (A), (B), or (E) of section 405(c)(5) of this title, but only with respect to the entry so deleted.

(s) Review by Secretary.

Where the Secretary has made an assessment of an amount due by a State under an agreement pursuant to this section, disallowed a State's claim for a credit or refund of an overpayment under such agreement, or allowed a State a credit or refund of an overpayment under such agreement, he shall review such assessment, disallowance, or allowance if a written request for such review is filed with him by the State within 90 days (or within such further time as he may allow) after notification to the State of such assessment, disallowance, or allowance. On the basis of the evidence obtained by or submitted to the Secretary, he shall render a decision affirming, modifying, or reversing such assessment, disallowance, or allowance. In notifying the State of his decision, the Secretary shall state the basis therefor.

(t) Judicial review.

(1) Notwithstanding any other provision of this subchapter any State, irrespective of the amount in controversy, may file, within two years after the mailing to such State of the notice of any decision by the Secretary pursuant to subsection (s) of this section affecting such State, or within such further time as the Secretary may allow, a civil action for a redetermination of the correctness of the assessment of the amount due, the disallowance of the claim for a refund or credit, or the allowance of the

refund or credit, as the case may be, with respect to which the Secretary has rendered such decision. Such action shall be brought in the district court of the United States for the judicial district in which is located the capital of such State, or, if such action is brought by an instrumentality of two or more States, the principal office of such instrumentality. The judgment of the court shall be final, except that it shall be subject to review in the same manner as judgments of such court in other civil actions. Any action filed under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(2) Notwithstanding the provisions of section 2411 of Title 28, no interest shall accrue to a State after final judgment with respect to a credit or refund of an overpayment made under an agreement pursuant to this section.

(3) The first sentence of section 2414 of Title 28 shall not apply to final judgments rendered by district courts of the United States in civil actions filed under this subsection. In such cases, the payment of amounts due to States pursuant to such final judgments shall be adjusted in accordance with the provisions of this section and with regulations promulgated by the Secretary.

(u) Positions compensated solely on a fee basis.

(1) Notwithstanding any other provision in this section, an agreement entered into under this section may be made applicable to service performed after 1967 in any class or classes of positions compensated solely on a fee basis to which such agreement did not apply prior to 1968 only if the State specifically requests that its agreement be made applicable to such service in such class or classes of positions.

(2) Notwithstanding any other provision in this section, an agreement entered into under this section may be modified, at the option of the State, at any time after 1967, so as to exclude services performed in any class or classes of positions compensation for which is solely on a fee basis.

(3) Any modification made under this subsection shall be effective with respect to services performed after the last day of the calendar year in which the modification is agreed to by the Secretary and the State.

(4) If any class or classes of positions have been excluded from coverage under the State agreement by a modification agreed to under this subsection, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such class or classes of positions. (Aug. 14, 1935, ch. 531, title II, § 218, as added Aug. 28, 1950, ch. 809, title I, § 106, 64 Stat. 514, and amended June 28, 1952, ch. 483, 66 Stat. 285; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 15, 1953, ch. 504, § 1, 67 Stat. 587; Sept. 1, 1954, ch. 1206, title I, § 101(a)(6), (h)(1)-(8), (i)(1), (2), (j), 68 Stat. 1055, 1059; Aug. 1, 1956, ch. 836, title I, §§ 103 (f), (g), 104 (e), (g), 70 Stat. 823, 825, 826; Aug. 30, 1957, Pub. L. 85-226, §§ 1-3, 71 Stat. 511, 512; Aug. 30, 1957, Pub. L. 85-227, § 1, 71 Stat. 512; Aug. 30, 1957, Pub. L. 85-229, 71 Stat. 513; Aug. 27, 1958, Pub. L. 85-787, §§ 1, 2, 72 Stat. 939; Aug. 28, 1958, Pub. L. 85-798, §§ 2, 3, 72 Stat. 964, 965; Aug. 28, 1958, Pub. L. 85-840, title III, § 315 (a), (b), (c)(1), 72 Stat. 1038-1040; Sept. 16, 1959, Pub. L. 86-284, § 2, 73 Stat. 566; July 12, 1960, Pub. L. 86-624, § 30 (e), (f), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 102 (a), (b)(1), (c) (1), (2), (d), (e), (f)(1), (g) (*l*), 103 (i), (j)(2) G), 74 Stat. 928-930, 934, 936-938; June 30, 1961, Pub. L. 87-64, title I, §§ 106, 107, 75 Stat. 139, 140; Oct. 24, 1962, Pub. L. 87-878, § 2, 76 Stat. 1202; July 2, 1964, Pub. L. 88-350, § 2, 78 Stat. 240; July 23, 1964, Pub. L. 88-382, 78 Stat. 335; July 30, 1965, Pub. L. 89-97, title I, § 108(b), title III, §§ 314, 315, 79 Stat. 338, 385; Jan. 2, 1968, Pub. L. 90-248, title I, §§ 116(a)-(b)(2), (c), (d), 117, 119(a), 120(a), 121, 122(d), 81 Stat. 840-844; Aug. 13, 1968, Pub. L. 90-486, § 7, 82 Stat. 759.)

REFERENCES IN TEXT

Section 6 of the National Guard Technicians Act of 1968, referred to in subsec. (b)(5), is section 6 of Pub. L. 90-486, which is set out as a note under section 709 of Title 32, National Guard.

Sections 1400, 1410, and 1426 of Title 26, referred to in subsec. (e) (1), which was a reference to sections 1400, 1410, and 1426 of the Internal Revenue Code, 1939, were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3101, 3111, 3121, and 7701 (a) (1), respectively, of said Title 26, Internal Revenue Code of 1954.

Subchapter A or E of chapter 9 of Title 26, Internal Revenue Code, 1939, referred to in subsec. (i), were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3101 et seq. and 6651 (a) and 3504, respectively, of said Title 26, Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

The year following the year in which this subsection is enacted, referred to in subsecs. (q)(2)(C) and (r)(1)(D), means the year following Sept. 13, 1960, which is the date of enactment of subsecs. (q) and (r) of this section.

AMENDMENTS

1968—Subsec. (b)(5). Pub. L. 90-486 substituted provisions pertaining to the coverage of persons employed under section 709 of Title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a state or the Commonwealth of Puerto Rico, such persons, for the purposes of this chapter, to be considered employees of the state or the Commonwealth of Puerto Rico, for provisions pertaining to the coverage of civilian employees of National Guard units of a state who are employed pursuant to section 42 of Title 32, and who are paid from funds allotted to such units by the Department of the Defense, such persons, for the purposes of this section, to be deemed employees of the state.

Subsec. (c)(3). Pub. L. 90-248, § 116(b)(1)(A), deleted former subpar. (A) which provided for the exclusion of any service of an emergency nature and redesignated former subpars. (B) and (C) as (A) and (B), respectively.

Subsec. (c)(4). Pub. L. 90-248, § 116(b)(1)(B), substituted "(3)(B)" for "(3)(C)".

Subsec. (c)(6)(E). Pub. L. 90-248, § 116(b)(2), added subpar. (E).

Subsec. (c)(7). Pub. L. 90-248, § 116(b)(1)(B), substituted "(3)(B)" for "(3)(C)".

Subsec. (c)(8). Pub. L. 90-248, § 116(c), added par. (8).

Subsec. (d)(4)(C). Pub. L. 90-248, § 116(b)(1)(C), substituted "(c)(3)(B)" for "(c)(3)(C)".

Subsec. (d)(5)(B). Pub. L. 90-248, § 116(b)(1)(B), substituted "(3)(B)" for "(3)(C)" wherever appearing.

Subsec. (d)(6)(C). Pub. L. 90-248, § 117, inserted "Illinois," after "Georgia,".

Subsec. (d)(6)(D). Pub. L. 90-248, § 116(a), designated existing provisions as clause (i) and added clause (ii).

Subsec. (d)(6)(F). Pub. L. 90-248, § 116(d), substituted "1970" for "1967".

Subsec. (f)(3). Pub. L. 90-248, § 121, added par. (3).

Subsec. (p). Pub. L. 90-248, §§ 119(a), 120(a), designated existing provisions as par. (1), inserted "Puerto Rico," after "Oregon,", and added par. (2).

Subsec. (u). Pub. L. 90-248, § 122(d), added subsec. (u).

1965—Subsec. (d)(6)(C). Pub. L. 89-97, § 314, inserted "Alaska," before "California".

Subsec. (d)(6)(F). Pub. L. 89-97, § 315, substituted "1967" for "1963".

Subsec. (h)(1). Pub. L. 89-97, § 108(b), substituted "Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a)(3) of section 401 of this title, subsection (b)(1) of such section, and subsection (a)(1) of section 1395i of this title, respectively" for "Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to subsections (a)(3) and (b)(1) of section 401 of this title".

1964—Subsec. (d)(6)(C). Pub. L. 88-382 included retirement systems established by Nevada.

Subsec. (p). Pub. L. 88-350 inserted Texas.

1962—Subsec. (p). Pub. L. 87-878 included the State of Maine.

1961—Subsec. (d)(6)(C). Pub. L. 87-64, § 107, included retirement system established by the State of New Mexico.

Subsec. (d)(6)(F). Pub. L. 87-64, § 106, substituted "prior to 1963 or, if later, the expiration of two years after the date" for "prior to 1960 or, if later the expiration of one year after the date", and inserted sentence providing that any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subpar. (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

1960—Subsec. (b)(1). Pub. L. 86-778, § 103(i), excluded Guam and American Samoa from the definition of the term "State."

Subsec. (c)(6)(C). Pub. L. 86-778, § 103(j)(2)(G), substituted "section 410(k)" for "section 410(*l*)."

Subsec. (d)(3). Pub. L. 86-778, § 102(a)(1), authorized certification by an official of the State designated by the Governor for that purpose.

Subsec. (d)(6). Pub. L. 86-624, § 30(e), substituted "Hawaii" for "the Territory of Hawaii" in cl. (C) and (G), and eliminated words "or Territory" which followed "State" in two instances in cl. (C) and in seven instances in cl. (G).

Subsec. (d)(6)(A). Pub. L. 86-778, § 102(c)(2), authorized a State, where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems, to deem the system, for purposes of subsec. (f) of this section, to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or any one or more of the political subdivisions concerned.

Subsec. (d)(6)(B). Pub. L. 86-778, § 102(g), inserted sentences providing that if a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

Subsec. (d)(6)(C). Pub. L. 86-778, § 102(b)(1), (*l*) inserted sentence requiring the positions of individuals, who become members of a separate retirement system which has been divided into two divisions or parts by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, to be included in the division or part of such system composed of positions of members who do not desire such coverage if such individuals, on the day before becoming such members, were in the division or part of another separate retirement system composed of positions of members who do not desire coverage under an agreement and all of the positions in the system of which such individuals so become members and all of the positions in the separate retirement system would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems, and included retirement systems established by the State of Texas.

Subsec. (d)(7). Pub. L. 86-778, § 102(a)(2), included certifications made by an official of the State designated by the Governor for that purpose.

Subsec. (e). Pub. L. 86-778, § 102(e)(1), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), and added par. (2).

Subsec. (f)(1). Pub. L. 86-778, § 102 (c)(1), (e)(2), inserted the exception to subsection (e)(2) of this section, and substituted provisions restricting the effective date of any agreement of modification to a date not earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State for provisions which specified the effective date of agreements or modifications entered into prior to 1960 and which limited the effective date of agreements or modifications entered into after 1959 to a date not earlier than the last day of the calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State.

Subsec. (p). Pub. L. 86-778, § 102(d), included the State of Virginia.

Pub. L. 86-624, § 30(f), substituted "Hawaii" for "Territory of Hawaii."

Subsecs. (q)-(t). Pub. L. 86-779, § 102(f)(1), added subsecs. (q)-(t).

1959—Subsec. (p). Pub. L. 86-284 included California, Kansas, North Dakota, and Vermont.

1958—Subsec. (d)(6). Pub. L. 85-840, § 315(a)(1), designated the first sentence as subpar. (A), the second and third sentences as subpar. (B), the fourth sentence as subpar. (C), the fifth sentence as subpar. (D), and the sixth sentence as subpar. (G), added subpars. (E) and (F), and amended subpar. (C) to include retirement systems established by the States of Massachusetts and Vermont.

Subsec. (d)(6). Pub. L. 85-787 added Massachusetts and Vermont to States authorized to divide their retirement systems into two parts, and added sentence permitting transfer, in cases of divided retirement system, of members not desiring coverage to system of members desiring coverage.

Subsec. (d)(7). Pub. L. 85-840, § 315(a)(2), substituted "(created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law)" for "(created under the fourth sentence of paragraph (6) of this subsection)", and "subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law" for "the fourth and fifth sentences of paragraph (6) of this subsection".

Subsec. (d)(8). Pub. L. 85-840, § 315 (b), added subsec. (d)(8).

Subsec. (f). Pub. L. 85-840, § 315(c)(1), designated existing provisions thereof as par. (1), redesignated cl. (1)-(4) of par. (1) as cl. (A)-(D), and added par. (2).

Subsec. (k)(2). Pub. L. 85-840, § 315(a)(3), inserted provisions requiring an individual who is in a position covered by a retirement system divided pursuant to the first sentence of subsec. (k)(2) and who is not a member of such system but is eligible to become a member thereof to be regarded, for the purposes of this subsection, as a member of such system, and providing for coverage under the agreement of any such individual.

Subsec. (k)(3). Pub. L. 85-798, § 2, added subsec. (k)(3).

Subsec. (p). Pub. L. 85-798, § 3, included agreements with the State of Washington.

1957—Subsec. (d)(6). Pub. L. 85–227 authorized the States of California, Connecticut, Minnesota, and Rhode Island, or any political subdivisions thereof, to divide their retirement system into two divisions or parts.

Subsec. (d)(7). Pub. L. 85–229 added subsec. (d)(7).

Subsec. (f)(3). Pub. L. 85–226, § 3 added subsec. (f)(3). Former subsec. (f)(3) redesignated (f)(4).

Subsec. (f)(4). Pub. L. 85–226, § 3, redesignated former subsec. (f)(3) as (f)(4), and substituted "1959" for "1957".

Subsec. (k). Pub. L. 85–226, § 1 redesignated existing provisions as par. (1) and added par. (2).

Subsec. (p). Pub. L. 85–226, § 2, included agreements with the States of Alabama, Georgia, Maryland, New York, and Tennessee, or the Territory of Hawaii.

1956—Subsec. (d)(6). Act Aug. 1, 1956, § 104(e), authorized the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawii, or any political subdivision thereof, to divide their retirement system into two divisions or parts, and provided for a separate retirement system with respect to employees of the States of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii who are compensated in whole or in part from grants under subchapter III of this chapter.

Subsec. (h)(1). Act Aug. 1, 1956, § 103(f), required amounts to be deposited in the Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to section 401 (a) (3), (b)(1), of this title.

Subsec. (j). Act Aug. 1, 1956, § 103(g), substituted "Secretary of Health, Education, and Welfare" for "Administrator", and provided for appropriation of amounts in the ratio in which amounts are deposited in the Trust Funds pursuant to subsection (h) (1) of this section.

Subsec. (p). Act Aug. 1, 1956, § 104(g), added subsec. (p).

1954—Subsec. (b)(5). Act Sept. 1, 1954, § 101(i) (1), (2), added at the end a new sentence relating to civilian employees of State National Guard units and a new sentence relating to certain State inspectors of agricultural products.

Subsec. (c)(3). Act Sept. 1, 1954, § 101(h)(3), added an additional optional exclusion with respect to all services performed by individuals as members of any coverage group who are in positions covered by a retirement system on the date when the group is brought under the agreement if these individuals are not eligible to become members of the system on that date, or on any later date when they first occupy the positions, and if they have not already been included under the agreement by means of a referendum.

Subsec. (c)(4). Act Sept. 1, 1954, § 101(h)(4), added a new sentence at the end.

Subsec. (c)(5). Act Sept. 1, 1954, § 101(a)(6), added at the end thereof the words "and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h)."

Subsec. (c)(7). Act Sept. 1, 1954, § 101(h)(5), added subsec. (c)(7).

Subsec. (d). Act Sept. 1, 1954, § 101(h)(1)(A), struck out "Exclusion of" in the heading, redesignated the subsection as (d)(1), and added a new sentence at the end.

Subsec. (d)(1). Act Sept. 1, 1954, § 101(h)(1)(B), added a provision in the first sentence making the prohibition inapplicable to service in positions which though covered by a retirement system on the enactment date, were, by reason of action taken prior to the enactment date by the appropriate governmental unit, no longer covered by a retirement system when the coverage group which included employees in such positions was brought under an agreement.

Subsec. (d)(2)–(6). Act Sept. 1, 1954, § 101(h)(2), added subsec. (d)(2)–(6).

Subsec. (f). Act Sept. 1, 1954, § 101(h)(6), permitted agreements or modifications entered into during 1955, 1956, and 1957 to be made retroactive to a date not earlier than December 31, 1954.

Subsec. (m)(1). Act Sept. 1, 1954, § 101(h)(7), substituted "paragraph (1) of subsection (d)" for the words "subsection (d)."

Subsec. (n). Act Sept. 1, 1954, § 101(h)(8), added subsec. (n).

Subsec. (o). Act Sept. 1, 1954, § 101(j), added subsec. (l).

1953—Subsec. (m). Act Aug. 15, 1953, added subsec. (m).

1952—Subsec. (f). Act June 28, 1952, substituted "January 1, 1954" for "January 1, 1953."

EFFECTIVE DATE OF 1968 AMENDMENTS

Amendment by Pub. L. 90–486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90–486, set out as a note under section 709 of Title 32, National Guard.

Section 116(b)(3) of Pub. L. 90–248 provided that: "The amendments made by this subsection [to subsecs. (c)(3), (4), (6), (7), (d)(4)(C), (5)(B) of this section] shall be effective with respect to services performed on or after January 1, 1968."

Section 120(c) of Pub. L. 90–248 provided that: "The amendment made by this section [to subsec. (p) of this section] shall apply in the case of any State with respect to modifications of such State agreement under section 218 of the Social Security Act [this section] made after the date of enactment of this Act [Jan. 2, 1968]."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of section by Pub. L. 87–64 effective August 1, 1961, see section 109 of Pub. L. 87–64, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendments of subsec. (b)(1) of this section by Pub. L. 86–778 applicable only with respect to service performed after 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

Amendment of subsec. (c)(6)(C) of this section by Pub. L. 86–778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

Section 102(b)(2) of Pub. L. 86–778 provided that: "The amendment made by paragraph (1) [to subsec. (d)(6)(C) of this section] shall apply in the case of transfers of positions (as described therein) which occur on or after the date of enactment of this Act [Sept. 13, 1960]. Such amendment shall also apply in the case of such transfers in any State which occurred prior to such date, but only upon request of the Governor (or other official designated by him for the purpose) filed with the Secretary of Health, Education, and Welfare before July 1, 1961; and, in the case of any such request, such amendment shall apply only with respect to wages paid on and after the date on which such request is filed."

Section 102(c)(3) of Pub. L. 86–778 provided that: "The amendment made by paragraph (1) [to subsec. (f)(1) of this section] shall apply in the case of any agreement or modification of an agreement under section 218 of the Social Security Act [this section] which is agreed to on or after January 1, 1960; except that in the case of any such agreement or modification agreed to before January 1, 1961, the effective date specified therein shall not be earlier than December 31, 1955. The amendment made by paragraph (2) [to subsec. (d)(6)(A) of this section] shall apply in the case of any such agreement or modification which is agreed to on or after the date of the enactment of this Act [Sept. 13, 1960]."

Section 102(f)(3) of Pub. L. 86–778 provided that:

"(A) The amendments made by paragraphs (1) and (2) [adding subsecs. (q)–(t) of this section and amending subsec. (c)(5)(F) of section 405 of this title] shall become effective on the first day of the second calendar year following the year in which this Act is enacted [1960].

"(B) In any case in which the Secretary of Health, Education, and Welfare has notified a State prior to the beginning of such second calendar year that there is an amount due by such State, that such State's claim for a credit or refund of an overpayment is disallowed, or that such State has been allowed a credit or refund of an overpayment, under an agreement pursuant to section 218 of the Social Security Act [this section], then the Secretary shall be deemed to have made an assessment of such amount due as provided in section 218(q) of such Act [subsec. (q) of this section] or notified the State of such allowance or disallowance, as the case may be,

on the first day of such second calendar year. In such a case the 90-day limitation in section 218(s) of such Act [subsec. (s) of this section] shall not be applicable with respect to the assessment so deemed to have been made or the notification of allowance or disallowance so deemed to have been given the State. However, the preceding sentences of this subparagraph shall not apply if the Secretary makes an assessment of such amount due or notifies the State of such allowance or disallowance on or after the first day of the second calendar year following the year in which this Act is enacted [1960] and within the period specified in section 218(q) of the Social Security Act [subsec. (q) of this section] or the period specified in section 218(r) of such Act [subsec. (r) of this section], as the case may be."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 315 (c) (2) of Pub. L. 85–840 provided that: "The amendment made by this subsection [to subsec. (f) of this section] shall apply in the case of any agreement, or modification of an agreement, under section 218 of the Social Security Act [this section], which is executed after the date of enactment of this Act [August 28, 1958]."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (h) (9) of act Sept. 1, 1954, provided that the amendments to subsecs. (c), (d), (f), (m), and (n) by that subsection, except that made to subsec. (d) (1) by par. (1) (B), shall take effect January 1, 1955.

Section 101 (i) (1) of act Sept. 1, 1954, which added a new sentence, relating to civilian employees of State National Guard units, to subsec. (b) (5) provided that the amendment shall be effective as of January 1, 1951.

Section 101 (i) (2) of act Sept. 1, 1954, which added to subsec. (b) (5) provisions relating to certain State inspectors of agricultural products, provided in part that the amendment shall be effective as of January 1, 1955.

Section 101 (i) (3) of act Sept. 1, 1954, provided that: "In the case of any coverage group to which the amendment made by paragraph (1) [to subsec. (b) (5) of this section] is applicable, any agreement or modification of an agreement agreed to prior to January 1, 1956, may, notwithstanding section 218 (f) of the Social Security Act [subsec. (f) of this section], be made effective with respect to services performed by employees as members of such coverage group after any effective date specified therein, but in no case may such effective date be earlier than December 31, 1950."

Section 101 (j) of act Sept. 1, 1954, which added subsec. (o), provided in part that it shall be effective as of January 1, 1951.

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsec. (c) (5) by section 101 (a) (6) of act Sept. 1, 1954, shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 2 of act Aug. 15, 1953, provided that for the purposes of subsec. (f) of this section this amendment shall take effect January 1, 1951.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF CALIFORNIA PRIOR TO FEBRUARY, 1966

Section 102(k) of Pub. L. 86–778, as amended by Pub. L. 89–79, title III, § 318, July 30, 1965, 79 Stat. 390, provided that:

"(1) Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of California heretofore entered into pursuant to such section may at the option of such State be modified, at any time prior to 1962, pursuant to subsection (c) (4) of such section 218 [subsec. (c) (4) of this section], so as to apply to services performed by any individual who, on or after January 1, 1957, and on or before December 31, 1959, was employed by such State (or any political subdivision thereof) in any hospital employee's position which, on September 1, 1954, was covered by a retirement system, but which, prior to 1960, was removed from coverage by such retirement system if, prior to July 1, 1960, there have been paid in good faith to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [sections 3101 and 3111 of title 26] if such services had constituted employment for purposes of chapter 21 of such Code [section 3101 et seq. of Title 26] at the time they were performed. Notwithstanding the provisions of subsection (f) of such section 218 [subsec. (f) of this section] such modification shall be effective with respect to (1) all services performed by such individual in any such position on or after January 1, 1960, and (2) all such services, performed before such date, with respect to which amounts equivalent to such taxes have, prior to the date of enactment of this subsection [Sept. 13, 1960], been paid.

"(2) Such agreement, as modified pursuant to paragraph (1), may at the option of such State be further modified, at any time prior to the seventh month after the month [July 1965] in which this paragraph is enacted, so as to apply to services performed for any hospital affected by such earlier modification by any individual who after December 31, 1959, is or was employed by such State (or any political subdivision thereof) in any position described in paragraph (1). Such modification shall be effective with respect to (A) all services performed by such individual in any such position on or after January 1, 1962, and (B) all such services, performed before such date, with respect to which amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [sections 3101 and 3111 of Title 26] if such services had constituted employment for purposes of chapter 21 of such Code at the time they were performed have, prior to the date of the enactment of this paragraph [July 30, 1965], been paid."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF MAINE PRIOR TO JULY 1, 1967

Section 316 of Pub. L. 85–840, as amended by Pub. L. 86–778, title I, § 102(j), Sept. 13, 1960, 74 Stat. 935; Pub. L. 88–350, § 1, July 2, 1964, 78 Stat. 240; Pub. L. 89–97, title III, § 337, July 30, 1965, 79 Stat. 409, eff. July 1, 1965, provided that: "For the purposes of any modification which might be made after the date of enactment of this Act [August 28, 1958] and prior to July 1, 1967, by the State of Maine of its existing agreement made under section 218 of the Social Security Act [this section], any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (d) of such section [subsec. (d) of this section]) to consist of a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees; and for the purposes of this sentence, the term 'teacher' shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory."

MODIFICATION OF AGREEMENT WITH MASSACHUSETTS WITH RESPECT EMPLOYEES OF THE MASSACHUSETTS TURNPIKE AUTHORITY

Section 124 of Pub. L. 90–248 provided that:

"(a) Notwithstanding the provisions of section 218(g) (1) of the Social Security Act [subsec. (g) (1) of this section] the Secretary may, under such conditions as he deems appropriate, permit the State of Massachusetts to modify its agreement entered into under section 218 of such Act [this section] so as to terminate the coverage of the employees of the Massachusetts Turnpike Authority effective at the end of any calendar quarter within the

two years next following the date on which such agreement is so modified.

"(b) If the coverage of employees of the Massachusetts Turnpike Authority is terminated pursuant to subsection (a), coverage cannot later be extended to the employees of such Authority."

MODIFICATION OF AGREEMENTS WITH NORTH DAKOTA AND IOWA WITH RESPECT TO CERTAIN STUDENTS

Section 338 of Pub. L. 89–97 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreements with the States of North Dakota and Iowa entered into pursuant to such section may, at the option of the State, be modified so as to exclude service performed in any calendar quarter in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university and if the remuneration for such service is less than $50. Any modification of either of such agreements pursuant to this Act shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [July 30, 1965]."

VALIDATION OF COVERAGE FOR CERTAIN FIREMEN IN THE STATE OF NEBRASKA

Section 119(b) of Pub. L. 90–248 provided that:
"In any case in which—

"(1) an individual has performed services prior to the enactment of this Act [Jan. 2, 1968] in the employ of a political subdivision of the State of Nebraska in a fireman's position, and

"(2) amounts, equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [sections 3101 and 3111 of Title 26] had such services constituted employment for purposes of section 21 of such Code [section 21 of Title 26] at the time they were performed, were timely paid in good faith to the Secretary of the Treasury, and

"(3) no refunds of such amounts paid in lieu of taxes have been obtained,

the amount of the remuneration for such services with respect to which such amounts have been paid shall be deemed to constitute remuneration for employment as defined in section 209 of the Social Security Act [section 409 of this title]."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ALASKA

Section 342 of Pub. L. 89–97 provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Alaska, or its predecessor the Territory of Alaska, where employees of an integral unit of a political subdivision of the State or Territory of Alaska have in good faith been included under the State or Territory's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act [subsec. (b)(2) of this section], be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [July 1965]."

EXTENSION OF COVERAGE TO SERVICE IN FIREMEN'S POSITION

Section 120(b) of Pub. L. 90–248 provided that: "Nothing in the amendments made by subsection (a) [to subsec. (p) of this section] shall authorize the extension of the insurance system established by title II of the Social Security Act [this subchapter] under the provisions of section 218(d)(6)(C) of such Act [subsec. (d)(6)(C) of this section] to service in any fireman's position."

MODIFICATION OF AGREEMENT WITH STATE OF NEBRASKA FOR EXCLUSION OF SERVICES PERFORMED BY JUSTICES OF THE PEACE AND CONSTABLES

Section 102(i) of Pub. L. 86–778 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of Nebraska entered into pursuant to such section may, at the option of such State, be modified so as to exclude services performed within such State by individuals as justices of the peace or constables, if such individuals are compensated for such services on a fee basis. Any modification of such agreement pursuant to this subsection shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [Sept. 13, 1960]."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF OKLAHOMA PRIOR TO 1962

Section 3 of Pub. L. 86–284 provided that: "Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 [subsecs. (d)(1) and (d)(3) of this section], the agreement with the State of Oklahoma heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1962, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed by any individual employed by such State (or any political subdivision thereof) in any policeman's position covered by a retirement system in effect on the date of enactment of this Act [Sept. 16, 1959] if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section]. Notwithstanding the provisions of subsection (f) of such section 218 [subsec. (f) of this section], such modification shall be effective with respect to (i) all services performed by such individual in any such position on or after the date of enactment of this Act [Sept. 16, 1959], and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218 [subsec. (e) of this section], at the time or times established pursuant to such subsection."

MODIFICATION OF EXISTING AGREEMENTS WITH CALIFORNIA, CONNECTICUT, MINNESOTA, OR RHODE ISLAND PRIOR TO 1960

Section 2 of Pub. L. 85–227 provided that: "Notwithstanding subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification of the agreement with the State of California, Connecticut, Minnesota, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1960, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955."

MODIFICATION OF EXISTING AGREEMENTS WITH THE STATES OF FLORIDA, NEVADA, NEW MEXICO, MINNESOTA, OKLAHOMA, PENNSYLVANIA, TEXAS, WASHINGTON, OR HAWAII PRIOR TO JULY 1, 1962

Section 104(f) of act Aug. 1, 1956, as amended by Pub. L. 86–284, § 1, provided that: "Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act [subsection (d) of this section], any agreement under such section entered into prior to the date of enactment of this Act [Aug. 1, 1956] by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified prior to July 1, 1962, so as to apply

to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF ARIZONA PRIOR TO JANUARY 1, 1956

Section 101 (k) of act Sept. 1, 1954, provided that: "If, prior to January 1, 1956, the agreement with the State of Arizona entered into pursuant to section 218 of the Social Security Act [this section] is modified pursuant to subsection (d) (3) of such section so as to apply to service performed by employees in positions covered by the Arizona Teachers' Retirement System the modification may, notwithstanding section 218 (f) of the Social Security Act [subsec. (f) of this section], be made effective with respect to service performed in such positions after an effective date specified in the modification, but in no case may such effective date be earlier than December 31, 1950. For the purposes of any such modification, all employees in positions covered by the Arizona Teachers' Retirement System shall be deemed, notwithstanding the provisions of section 218 (d) (6) of such Act [subsec. (d) (6) of this section], to constitute a separate coverage group."

VALIDATION OF COVERAGE FOR DISTRICT ENGINEERING AIDES OF SOIL AND WATER CONSERVATION DISTRICTS OF OKLAHOMA

Pub. L. 88-650, § 3, Oct. 13, 1964, 78 Stat. 1077, provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Oklahoma, remuneration paid to district engineering aides of soil and water conservation districts of the State of Oklahoma which was reported by the State as amounts paid to such aides as employees of the State for services performed by them during the period beginning January 1, 1951, and ending with the close of June 30, 1962, shall be deemed to have been paid to such aides for services performed by them in the employ of the State."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ARKANSAS

Section 1 of Pub. L. 87-878 provided: "That, for purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Arkansas, where employees of an integral unit of a political subdivision of the State of Arkansas have in good faith been included under the State's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act [subsec. (b)(2) of this section], be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [1962]."

VALIDATION OF COVERAGE FOR CERTAIN MISSISSIPPI TEACHERS

Section 102(h) of Pub. L. 86-778 provided that:

"For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Mississippi, services of teachers in such State performed after February 28, 1951, and prior to October 1, 1959, shall be deemed to have been performed by such teachers as employees of the State. The term 'teacher' as used in the preceding sentence means—

"(1) any individual who is licensed to serve in the capacity of teacher, librarian, registrar, supervisor, principal, or superintendent and who is principally engaged in the public elementary or secondary school system of the State in any one or more of such capacities;

"(2) any employee in the office of the county superintendent of education or the county school supervisor, or in the office of the principal of any county or municipal public elementary or secondary school in the State; and

"(3) any individual licensed to serve in the capacity of teacher who is engaged in any educational capacity in any day or night school conducted under the supervision of the State department of education as a part of the adult education program provided for under the laws of Mississippi or under the laws of the United States."

PRESUMPTION OF WORK DEDUCTIONS FOR SERVICES PERFORMED PRIOR TO 1955 IN CASE OF CERTAIN RETROACTIVE STATE AGREEMENTS; RECOMPUTATION

Section 101 (*l*) of act Sept. 1, 1954, provided that:

"(1) In the case of any services performed prior to 1955 to which an agreement under section 218 of the Social Security Act [this section] was made applicable, deductions which—

"(A) were not imposed under section 203 of such Act [section 403 of this title] with respect to such services performed prior to the date the agreement was agreed to or, if the original agreement was not applicable to such services, performed prior to the date the modification making such agreement applicable to such services was agreed to, and

"(B) would have been imposed under such section 203 [section 403 of this title] had such agreement, or modification, as the case may be, been agreed to on the date it became effective,

shall be deemed to have been imposed, but only for purposes of section 215 (f) (2) (A) [section 415 (f) (2) (A) or section 415 (f) (4) (A) of this title] or section 215 (f) (4) (A) of such Act [section 415 (f) (2) (A) or section 415 (f) (4) (A) of this title] as in effect prior to the enactment of this Act. An individual with respect to whose services the preceding sentence is applicable, or in the case of his death, his survivors entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income, shall be entitled to a recomputation of his primary insurance amount under such section 215 (f) (2) (A) or section 215 (f) (4) (A) [section 415 (f) (2) (A) or section 415 (f) (4) (A) of this title], as the case may be, if the conditions specified therein are met and if, with respect to a recomputation under such section 215 (f) (2) (A) [section 415 (f) (2) (A) of this title], such individual files the application referred to in such section after August 1954 and prior to January 1956 or, with respect to a recomputation under such section 215 (f) (4) (A) [section 415 (f) (4) (A) of this title], such individual died prior to January 1956 and any of such survivors entitled to monthly benefits files an application, in addition to the application filed for such monthly benefits, for a recomputation under such section 215 (f) (4) (A) [section 415 (f) (4) (A) of this title].

"(2) For purposes of a recomputation made by reason of paragraph (1) of this subsection, the primary insurance amount of the individual who performed the services referred to in such paragraph shall be computed under subsection (a) (2) of section 215 of the Social Security Act, as amended by this Act [section 415 (a) (2) of this title] (but, for such purposes, without application of subsection (d) (4) of such section, as in effect prior to the enactment of this Act or as amended by this Act [section 415 (d) (4) of this title]) and as though he became entitled to old-age insurance benefits in whichever of the following months yields the highest primary insurance amount:

"(A) the month following the last month for which deductions are deemed, pursuant to paragraph (1) of this subsection, to have been made; or

"(B) the first month after the month determined under subparagraph (A) (and prior to September 1954) in which his benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] were no longer subject to deductions under section 203 (b) of such Act [section 403 (b) of this title]; or

"(C) the first month after the last month (and prior to September 1954) in which his benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] were subject to deductions under section 203 (b) of such Act [section 403 (b) of this title]; or

"(D) the month in which such individual filed his application for recomputation referred to in paragraph (1) of this subsection or, if he died without filing such application and prior to January 1, 1956, the month in which he died, and in any such case (but, if the individual is deceased, only if death occurred after August 1954) the amendments made by subsections (b) (1), (e) (1) and (e) (3) (B) of section 102 of this Act [to section 415 (b), (e), and (f) (3) of this title] shall be applicable.

Such recomputation shall be effective for and after the month in which the application required by paragraph (1) of this subsection is filed. The provisions of this subsection shall not be applicable in the case of any individual if his primary insurance amount has been recomputed under section 215 (f) (2) of the Social Security Act [section 415 (f) (2) of this title] on the basis of an application filed prior to September 1954.

"(3) If any recomputation under section 215 (f) of the Social Security Act [section 415 (f) of this title] is made by reason of deductions deemed pursuant to paragraph (1) of this subsection to have been imposed with respect to benefits based on the wages and self-employment income of any individual, the total of the benefits based on such wages and self-employment income for months for which such deductions are so deemed to have been imposed shall be recovered by making, in addition to any other deductions under section 203 of such Act [section 403 of this title], deductions from any increase in benefits, based on such wages and self-employment income, resulting from such recomputation."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85–840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85–840, set out as a note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 410, 441 of this title; title 20 section 880b–2; title 26 sections 1402, 3121, 6413, 6511.

§ 419. Repealed. Pub. L. 86–778, title 1, § 103(j)(1), Sept. 13, 1960, 74 Stat. 937.

Section, act Aug. 14, 1950, ch. 531, title II, § 219, as added Aug. 28, 1950, ch. 809, title I, § 107, 64 Stat. 517, prescribed the effective date of this subchapter in Puerto Rico as January 1 of the first calendar year which begins more than 90 days after the date on which the President received a certification from the Governor of Puerto Rico.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 86–778 effective on Sept. 13, 1960, see section 103(v) (1), (3) of Pub. L. 86–778, set out as a note under section 402 of this title.

§ 420. Disability provisions inapplicable if benefit rights impaired.

None of the provisions of this subchapter relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this subchapter; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this subchapter if such benefit or payment would be greater without their application. (Aug. 14, 1935, ch. 531, title II, § 220, as added Sept. 1, 1954, ch. 1206, title I, § 106 (g), 68 Stat. 1081.)

CODIFICATION

Former section 420, act Aug. 14, 1935, ch. 531, title II, § 220, as added July 18, 1952, ch. 945, § 3 (e), 66 Stat. 772, relating to the inapplicability of the disability provisions if benefits were reduced, ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 415 of this title and in title 20 section 880b–2.

§ 421. Disability determinations.

(a) State agencies.

In the case of any individual, the determination of whether or not he is under a disability (as defined in section 416(i) or 423(d) of this title) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g) of this section, be made by a State agency pursuant to an agreement entered into under subsection (b) of this section. Except as provided in subsections (c) and (d) of this section, any such determination shall be the determination of the Secretary for purposes of this subchapter.

(b) Agreement between Secretary and State.

The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determinations referred to in subsection (a) of this section with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

(c) Review of determination by Secretary.

The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 416(i) or 423(d) of this title) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.

(d) Hearings and judicial review.

Any individual dissatisfied with any determination under subsection (a), (c), or (g) of this section shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405 (b) of this title with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405 (g) of this title.

(e) State's right to cost from Trust Funds.

Each State which has an agreement with the Secretary under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as may be mutually agreed upon, the cost to the State of carrying out the agreement under this section. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with

such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 401 of this title (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are attributable to the administration of section 423 of this title and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) Use of funds.

All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) Regulations governing determinations in certain cases.

In the case of individuals in a State which has no agreement under subsection (b) of this section, in the case of individuals outside the United States, and in the case of any class or classes of individuals not included in an agreement under subsection (b) of this section, the determinations referred to in subsection (a) of this section shall be made by the Secretary in accordance with regulations prescribed by him. (Aug. 14, 1935, ch. 531, title II, § 221, as added Sept. 1, 1954, ch. 1206, title I, § 106 (g), 68 Stat. 1081, and amended Aug. 1, 1956, ch. 836, title I, § 103(c) (7), (8), (h), 70 Stat. 818, 823; Jan. 2, 1968, Pub. L. 90–248, title I, § 158(c) (3), (4), 81 Stat. 869.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsection (b), is classified to chapter 4 of Title 29, Labor.

CODIFICATION

Former section 421, act Aug. 14, 1935, ch. 531, title II, § 221, as added July 18, 1952, ch. 945, § 3 (e), 66 Stat. 772, and amended by 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, relating to disability determinations, ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 158(c)(3), substituted in first sentence reference to "423(d)" for "423(c)".

Subsec. (c). Pub. L. 90–248, § 158(c)(4), substituted reference to "423(d)" for "423(c)".

1956—Subsec. (a). Act Aug. 1, 1956, § 103(c)(7), inserted reference to section 423(c) of this title.

Subsec. (c). Act Aug. 1, 1956, § 103(c)(8), restricted disability to the definition of such term contained in section 416(i) or 423(c) of this title.

Subsec. (e). Act Aug. 1, 1956, § 103(h), substituted "Trust Funds" for "Trust Fund", and provided for adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to payments made under this subsection.

Subsec. (f). Act Aug. 1, 1956, § 103(h), substituted "Trust Funds" for "Trust Fund".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (a), (c) of this section by Pub. L. 90–248 applicable with respect to application for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90–248, set out as a note under section 423 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, and section 114 of act Sept. 1, 1954 set out as notes under section 416 of this title.

TRAVEL EXPENSES FOR VERIFICATION OF DISABILITIES

Pub. L. 91–667, title II, § 200, Jan. 1, 1971, 84 Stat. 2013, provided in part that: "Such amounts as are required shall be available to pay the cost of necessary travel incident to medical examinations or hearings for verifying disabilities or for review of disability determinations, of individuals who file applications for disability determinations under title II of the Social Security Act, as amended [this subchapter]."

Similar provisions were contained in acts Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 408; June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434; June 29, 1957, Pub. L. 85–67, title II, § 201, 71 Stat. 221; Aug. 1, 1958, Pub. L. 85–580, title II, § 201, 72 Stat. 471; Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 352; Sept. 2, 1960, Pub. L. 86–703, title II, § 201, 74 Stat. 769; Sept. 22, 1961, Pub. L. 87–290, title II, § 201, 75 Stat. 604; Aug. 14, 1962, Pub. L. 87–582, title II, § 200, 76 Stat. 375; Oct. 11, 1963, Pub. L. 88–136, title II, § 200, 77 Stat. 239; Sept. 19, 1964, Pub. L. 88–605, title II, § 200, 78 Stat. 974; Aug. 31, 1965, Pub. L. 89–156, title II, § 200, 79 Stat. 604; Nov. 7, 1966, Pub. L. 89–787, title II, § 200, 80 Stat. 1395; Nov. 8, 1967, Pub. L. 90–132, title II, § 200, 81 Stat. 402; Oct. 11, 1968, Pub. L. 90–557, title II, § 200, 82 Stat. 988; Mar. 5, 1970, Pub. L. 91–204, title II, § 200, 84 Stat. 41.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 425 of this title; title 20 section 880b–2; title 30 section 923.

§ 422. Rehabilitation services.

(a) Referral for rehabilitation services.

It is declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

(b) Deductions on account of refusal to accept rehabilitation services.

(1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 402 and 423 of this title for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow or surviving divorced wife who has not attained age 60, a widower who has not attained 62, or an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the

application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1) of this subsection. If both this paragraph and paragraph (3) of this subsection are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 402 of this title for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1) of this subsection.

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title).

(c) Period of trial work.

(1) The term "period of trial work," with respect to an individual entitled to benefits under section 423 or 402(d) of this title, means a period of months beginning and ending as provided in paragraphs (3) and (4).

(2) For purposes of sections 416(i) and 423 of this title, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. For purposes of this subsection the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 402(d) of this title who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later. Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following September 1960; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

(4) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(A) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(B) the month in which his disability (as defined in section 423(d) of this title) ceases (as determined after application of paragraph (2) of this subsection).

(5) In the case of an individual who becomes entitled to benefits under section 423 of this title for any month as provided in clause (ii) of subsection (a)(1) of such section, the preceding provisions of this subsection shall not apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 423 of this title.

(d) Cost of rehabilitation services from trust funds.

(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

(A) entitled to disability insurance benefits under section 423 of this title, or

(B) entitled to child's insurance benefits under section 402(d) of this title after having attained age 18 (and are under a disability), or

(C) entitled to widow's insurance benefits under section 402(e) of this title prior to attaining age 60, or

(D) entitled to widower's insurance benefits under section 402(f) of this title prior to attaining age 62.

to the end that savings will result to the Trust Funds as a result of rehabilitating the maximum number of such individuals into productive activity, there are authorized to be transferred from the Trust Funds such sums as may be necessary to enable the Secretary to pay the costs of vocational rehabilitation services for such individuals (including (i) services during their waiting periods, and (ii) so much of the expenditures for the administration of any State plan as is attributable to carrying out this subsection); except that the total amount so made available pursuant to this subsection in any fiscal year may not exceed 1 percent of the total of the benefits under section 402(d) of this title for children who have attained age 18 and are under a disability, the benefits under section 402(e) of this title for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 402(f) of this title for widowers who have not attained age 62, and the benefits under section 423 of this title, which were

certified for payment in the preceding year. The selection of individuals (including the order in which they shall be selected) to receive such services shall be made in accordance with criteria formulated by the Secretary which are based upon the effect the provision of services would have upon the Trust Funds.

(2) In the case of each State which is willing to do so, such vocational rehabilitation services shall be furnished under a State plan for vocational rehabilitation services which—

(A) has been approved under section 35 of Title 29,

(B) provides that, to the extent funds provided under this subsection are adequate for the purpose, such services will be furnished to any individual in the State who meets the criteria prescribed by the Secretary pursuant to paragraph (1) of this subsection, with reasonable promptness and in accordance with the order of selection determined under such criteria, and

(C) provides that such services will be furnished to any individual without regard to (i) his citizenship or place of residence, (ii) his needs for financial assistance except as provided in regulations of the Secretary in the case of maintenance during rehabilitation, or (iii) any order of selection which would otherwise be followed under the State plan pursuant to section 35(a)(4) of Title 29.

(3) In the case of any State which does not have a plan which meets the requirements of paragraph (2) of this subsection, the Secretary may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals.

(4) Payments under this subsection may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(5) Money paid from the Trust Funds under this subsection to pay the costs of providing services to individuals who are entitled to benefits under section 423 of this title (including services during their waiting periods), or who are entitled to benefits under section 402(d) of this title on the basis of the wages and self-employment income of such individuals shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid out from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

(A) the total cost of the services provided under this subsection, and

(B) subject to the provisions of the preceding sentence, the amount of such cost which should be charged to each of such Trust Funds.

(6) For the purposes of this subsection the term "vocational rehabilitation services" shall have the meaning assigned to it in the Vocational Rehabilitation Act, except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purposes of this subsection. (Aug. 14, 1935, ch. 531, title II, § 222, as added Sept. 1, 1954, ch. 1206, title I, § 106(g) 68 Stat. 1081, and amended Aug. 1, 1956, ch. 836, title I, § 103(b), 70 Stat. 817; Aug. 28, 1958, Pub. L. 85–840, title II, § 205(n), title III, § 307(g), 72 Stat. 1025, 1032; Sept. 13, 1960, Pub. L. 86–778, title IV, § 403(a), 74 Stat. 968; July 30, 1965, Pub. L. 89–97, title III, §§ 306(c)(14), 308(d)(11), 336, 79 Stat. 373, 379, 408; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 104(d) (3), (4), 158(c)(5), 81 Stat. 832, 869.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (d)(6), is classified to chapter 4 of Title 29, Labor.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 104(d)(3)(A), inserted "widow's insurance benefits, or widower's insurance benefits," after "benefits,".

Subsec. (b)(1). Pub. L. 90–248, § 104(d)(3)(B), substituted "child's insurance benefits, a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62, or" for "child's insurance benefits or if".

Subsec. (c)(4)(B). Pub. L. 90–248, § 158(c)(5), substituted reference to "423(d)" for "423(c)(2)".

Subsec. (d)(1). Pub. L. 90–248, § 104(d)(4), added subpars. (C) and (D), and inserted "the benefits under section 402(e) of this title for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 402(f) of this title for widowers who have not attained age 62," after "disability," in text following subpar. (D).

1965—Subsec. (b)(3). Pub. L. 89–97, § 308(d)(11), inserted "divorced wife," following "wife,"

Subsec. (b)(4). Pub. L. 89–97, § 306(c)(14), added par. (4).

Subsec. (d). Pub. L. 89–97, § 336, added subsec. (d).

1960—Subsec. (c). Pub. L. 86–778 amended subsection generally by substituting provisions relating to period of trial work for provisions which related to services performed pursuant to a State-approved rehabilitation program.

1958—Subsec. (b). Pub. L. 85–840 designated existing provisions thereof as par. (1), and added pars. (2) and (3).

1956—Subsec. (a). Act Aug. 1, 1956, designated existing provisions as subsec. (a), authorized referral of disabled individuals who are entitled to child's insurance benefits, and substituted "rehabilitated into productive activity" for "restored to productive activity".

Subsecs. (b), (c). Act Aug. 1, 1956, added subsecs. (b) and (c).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (a), (b)(1), (d)(1) of this section by section 104 of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90–248, set out as a note under section 402 of this title.

Amendment of subsec. (c)(4)(B) of this section by section 158(c)(5) of Pub. L. 90–248, applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90–248, set out as a note under section 423 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (b)(3) of this section by Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 403(e) of Pub. L. 86-778 provided that:

"(1) The amendment made by subsection (a) [to subsec. (c) of this section] shall be effective only with respect to months beginning after the month in which this Act is enacted [Sept. 1960].

"(2) The amendments made by subsections (b) and (d) [to sections 423(a)(1) and 402(d)(1) of this title] shall apply only with respect to benefits under section 223(a) or 202(d) of the Social Security Act [section 423 (a) or 402(d) of this title] for months after the month in which this Act is enacted [Sept. 1960] in the case of individuals who, without regard to such amendments, would have been entitled to such benefits for the month in which this Act is enacted [Sept. 13, 1960] or for any succeeding month.

"(3) The amendment made by subsection (c) [to section 416(i)(2) of this title] shall apply only in the case of individuals who have a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) beginning on or after the date of the enactment of this Act [Sept. 13, 1960], or beginning before such date and continuing, without regard to such amendment, beyond the end of the month in which this Act is enacted [Sept. 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 307 (h) (3) of Pub. L. 85-840 provided that: "The amendments made by subsection (g) [adding subsec. (b) (2) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months, occurring after the month in which this Act is enacted [August 1958], in which a deduction is incurred under paragraph (1) of section 222 (b) of the Social Security Act [par. (1) of subsec. (b) of this section]."

Amendment of subsec. (b) (3) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after Aug. 28, 1958, but only if an application for such benefits is filed on or after August 28, 1958, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 403, 423, 424a of this title; title 20 section 880b-2; title 26 section 1402.

§ 423. Disability insurance benefit payments.

(a) Disability insurance benefits.

(1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c)(1) of this section),

(B) has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (d) of this section)

shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2) of this section) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 416(i) of this title) which ceased, within the 60-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, or the third month following the month in which his disability ceases. No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) of this section except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual.

(2) Except as provided in section 402(q) of this title, such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he had attained age 62 (if a woman) or age 65 (if a man) in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

and as though he had become entitled to old-age insurance benefits in the month in which he filed his application for disability insurance benefits and was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of a woman who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 415(b)(3) of this title shall not include the year in which she attained age 62, or any year thereafter.

(b) Filing application.

An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1) of this section) shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month. An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if he files such application before the end of the 12th month immediately succeeding such month.

(c) Definitions; insured status; waiting period.

For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 (if a woman) or age 65

(if a man) and filed application for benefits under section 402(a) of this title on the first day of such month, and

(B) (i) he had not less than twenty quarters of coverage during the forty-quarter period which ends with the quarter in which such month occurred, or

(ii) if such month ends before the quarter in which he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage.

For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage.

(2) The term "waiting period" means, in the case of any application for disability insurance benefits, the earliest period of six consecutive calendar months—

(A) throughout which the individual who files such application has been under a disability and

(B) (i) which begins not earlier than with the first day of the eighteenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such eighteenth month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such eighteenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957.

(d) Same; disability.

(1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416 (i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 402(e) or (f) of this title) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, or widower shall not be determined to be under a disability (for purposes of section 402 (e) or (f) of this title) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 422(c) of this title, be found not to be disabled.

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require. (Aug. 14, 1935, ch. 531, title II, § 223, as added Aug. 1, 1956, ch. 836, title I, § 103 (a), 70 Stat. 815, and amended Aug. 26, 1958, Pub. L. 85–840, title II, §§ 202, 204(b), 72 Stat. 1020, 1021; Sept. 13, 1960, Pub. L. 86–778, title III, § 303(f), title IV, §§ 401 (a), (b), 402 (a), (c), (d), 403(b), 74 Stat. 964, 967, 969; June 30, 1961, Pub. L. 87–64, title I, § 102 (b)(2) (B), (C), (c)(2)(C), (3) (D), (E), 75 Stat. 134, 135; July 30, 1965, Pub. L. 89–97, title III, §§ 302(e), 303 (a)(2), (b)(3), (4), (c), 304 (m), (n), 328(c), 344(b)–(d), 79 Stat. 366, 367, 370, 400, 413; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 105(b), 158(a), (b), (c)(6)—(8), 81 Stat. 833, 867—879.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–248, § 158(c)(6)—(8), substituted in subpar. (D) reference to "subsection (d)" for "subsection (c)(2)", in text of first sentence following subpar. (D) reference to "subsection (c)(2)" for "subsection (c)(3)", and in last sentence following subpar. (D) reference to "subsection (d) except for paragraph (1)(B) thereof" for "subsection (c)(2) except for subparagraph (B) thereof", respectively.

Subsec. (c). Pub. L. 90–248, § 158(a), restricted catchline to definitions of "insured status" and "waiting period", struck out former par. (2) defining "disability" and requiring medical and other evidence of disability, now incorporated in subsec. (d)(1)(A), (5) of this section, and redesignated former par. (3) as (2).

Subsec. (c)(1)(B)(ii). Pub. L. 90–248, § 105(b), substituted in clause (ii) "before the quarter in which he

attains" for "before he attains" and deleted "and he is under a disability by reason of blindness (as defined in section 416(i)(1) of this title)" following "age 31".

Subsec. (d). Pub. L. 90-248, § 158(b), redesignated former first sentence of former subsec. (c)(2), comprising subpars. (A) and (B), as par. (1)(A), (B), added pars. (2)—(4), and redesignated former second sentence of former subsec. (c)(2) as par. (5).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 303(b)(3), 344(c) struck out from subpar. (D) "at the time such application is filed," following the parenthetical matter and from the provisions following subpar. (D) "the first month for which he is entitled to old-age insurance benefits" after "age 65,"; and prohibit payment to an individual who would not meet the definition of disability in subsec. (c)(2) except for subpar. (B) thereof for any month in which he engages in substantial gainful activity, and payment for such month under subsec. (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual, respectively.

Subsec. (a)(2). Pub. L. 89-97, §§ 302(e) (1), (2), 304 (m) inserted in the first sentence "and was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit" and "Except as provided in section 402(q) of this title" and in the last sentence substituted "shall not include the year" for "shall not include the first year" and struck out the phrase "both was fully insured and had" preceding "attained age 62" in two instances, respectively.

Subsec. (a)(3). Pub. L. 89-97, § 304(n), repealed subsec. (a)(3), which prohibited an individual from becoming entitled to disability insurance benefits if he is entitled to a widow's, widower's, or parent's insurance benefit, or an old-age, wife's or husband's insurance benefit.

Subsec. (b). Pub. L. 89-97, §§ 303(c), 328(c) deleted from the last sentence "after June 1957" following "for any months" and substituted therein "before" for "prior to" where first appearing and "if he files such application before the end of the 12th month immediately succeeding such month" for "if he is continuously under a disability after such month and until he files application therefor and he files said application prior to the end of the twelfth month immediately succeeding such month"; and substituted provisions calling for an application for benefits filed before the first month in which the applicant satisfies the requirements for such benefits to be deemed a valid application only if the applicant satisfies the requirements before the Secretary makes a final decision on the application and calling for the application to be deemed filed in the first month if the applicant is found to satisfy the requirements for provisions placing an outer limit on the time prior to entitlement during which an application would be deemed filed during the first month prior to entitlement, respectively.

Subsec. (c)(1). Pub. L. 89-97, § 344(b), removed from existing subpar. (B) provision prohibiting the inclusion, as part of such 40-quarter period, of any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage, and designated such subpar., as so amended, as subpar. (B)(i), added subpar. (B)(ii), and added the material following subpar. (B)(ii) prohibiting inclusion of any quarter as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number.

Subsec. (c)(2)(A). Pub. L. 89-97, § 303(a)(2), designated existing provisions as subpar. (A) and substituted therein "which has lasted or can be expected to last for a continuous period of not less than 12 months; or" for "to be of long-continued and indefinite duration."

Subsec. (c)(2)(B). Pub. L. 89-97, § 344(d), added subpar. (B).

Subsec. (c)(3)(A). Pub. L. 89-97, § 303(b)(4), struck out "which continues until such application is filed" following "disability".

1961—Subsec. (a)(1). Pub. L. 87-64, § 102(b)(2)(C), substituted "the month in which he attains age 65, the first month for which he is entitled to old-age insurance benefits" for "the month in which he attains the age of sixty-five."

Subsec. (a)(2). Pub. L. 87-64, § 102(c) (2) (C), (3) (D), substituted "as though he had attained age 62 (if a woman) or age 65 (if a man)" for "as though he had attained retirement age", and "fully insured and had attained age 62" for "fully insured and had attained retirement age", in two instances.

Subsec. (a)(3). Pub. L. 87-64, § 102(b)(2)(B), added subsec. (a)(3).

Subsec. (c)(1)(A). Pub. L. 87-64, § 102(c)(3)(E), substituted "attained age 62 (if a woman) or age 65 (if a man)" for "attained retirement age."

1960—Subsec. (a)(1). Pub. L. 86-778, §§ 401(a), 402(a), 403(b), eliminated provisions from cl. (B) which required an individual to have attained the age of 50, inserted provisions authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and substituted provisions requiring benefits to end with the month preceding whichever of the following is the earliest: the month in which he dies, the month in which he attains the age of 65, or the third month following the month in which his disability ceases for provisions which required the benefits to end with the month preceding the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of 65.

Subsec. (a)(2). Pub. L. 86-778, § 303(f), required the benefit for any month to be equal to an individual's primary insurance amount for the month determined under section 415 of this title as though he had attained retirement age in (A) the first month of his waiting period, or (B) in any case in which clause (ii) of par. (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits, and as though he had become entitled to old-age insurance benefits in the month in which he filed his application for disability insurance benefits, and inserted sentence permitting exclusion from the elapsed years, in the case of a woman who both was fully insured and had attained retirement age in or before the first month referred to in subpar. (A) or (B), the first year in which she both was fully insured and had attained retirement age, or any year thereafter. For amendment of subsec. (a)(2) by section 402(b) of Pub. L. 86-778, see note under this section.

Subsec. (b). Pub. L. 86-778, § 402 (c), (d), prohibited acceptance of an application, in any case in which clause (ii) of paragraph (1) of subsec. (a) of this section is applicable, if it is filed more than six months before the first month for which the applicant becomes entitled to benefits, inserted provisions requiring any application filed within the nine months' period or six months' period, as the case may be, to be deemed to have been filed in such first month, and substituted "if he is continuously under a disability after such month and until he files application therefor, and he files such application" for "if he files application therefor."

Subsec. (c)(3). Pub. L. 86-778, § 401(b), eliminated provisions which prohibited a waiting period for any individual from beginning before the first day of the sixth month before the month in which he attains the age of 50.

1958—Subsec. (b). Pub. L. 85-840, § 202(a), provided that individuals who would have been entitled to disability insurance benefits for any month after June 1957 had they filed application therefor prior to the end of such month shall be entitled to disability benefits for such month if they file application therefor prior to the end of the twelfth month immediately succeeding such month.

Subsec. (c)(1). Pub. L. 85-840, § 204(b), substituted "fully insured" for "fully and currently insured" in cl. (A).

Subsec. (c)(3). Pub. L. 85–840, § 202(b), inserted "which continues until such application is filed" following "under a disability" in cl. (A), and substituted "eighteenth month" for "sixth month" in three instances in cl. (B).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (c)(1)(B) by section 105(b) of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for months after January 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 105(c) of Pub. L. 90–248 set out as a note under section 416 of this title.

Section 158(e) of Pub. L. 90–248 provided that:

"The amendments made by this section [enacting subsec. (d) of this section and amending subsecs. (a)(1) and (c) of this section, and sections 402(d)(1), (s)(1)—(3), 416(i)(1), 421(a), (c), 422(c)(4) and 425 of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], and for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [Jan. 1968], or

"(2) before the month in which this Act [Jan. 1968], is enacted if the applicant has not died before such month and if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a)(2) of this section by Pub. L. 89–97 applicable in the case of individuals who become entitled to disability insurance benefits under this section after December 1965, see section 302(f)(5) of Pub L. 89–97, set out as a note under section 415 of this title.

Section 303(f)(1) of Pub. L. 89–97 provided that:

"The amendments made by subsection (a) [to subsec. (c)(2)(A) of this section and section 416(i)(1)(A) of this title], paragraphs (3) and (4) of subsection (b) [to subsecs. (a)(1) and (c)(3)(A) of this section], and subsections (c) and (d) [to subsec. (b) of this section and section 402(j)(1) of this title], and the provisions of subparagraphs (B) and (E) of section 216(i)(2) of the Social Security Act [section 416(i)(2) of this title] (as amended by subsection (b)(1) of this section), shall be effective with respect to applications for disability insurance benefits under section 223 [this section], and for disability determinations under section 216(i) [section 416(i) of this title], of the Social Security Act filed—

"(A) in or after the month in which this Act is enacted [July 1965], or

"(B) before the month in which this Act is enacted [July 1965], if the applicant has not died before such month and if—

"(i) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

"(ii) the notice referred to in subparagraph (i) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 405(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly insurance benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by subsections (a) [to subsec. (c)(2)(A) of this section and section 416(i)(1)(A) of this title] and (b) [to subsecs. (a)(1) and (c)(3)(A) of this section and section 416 (i) (2), (3) of this title] for months before the second month following the month in which this Act is enacted [July 1965]. The preceding sentence shall also be applicable in the case of applications for monthly insurance benefits under title II of the Social Security Act [this subchapter] based on the wages and self-employment income of an applicant with respect to whose application for disability insurance benefits under section 223 of such Act [this section] such preceding sentence is applicable."

Amendment of subsec. (a) (2), (3) by section 304 of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89–97, set out as a note under section 402 of this title.

Amendment of subsec. (b) of this section by section 328 of Pub. L. 89–97 applicable with respect to applications filed on or after July 30, 1965, applications as to which the Secretary has not made a final decision before July 30, 1965, and, if a civil action with respect to a final decision of the Secretary has been commenced under section 405(g) of this title before July 30, 1965, applications as to which there has been no final judicial decision before July 30, 1965, see section 328(d) of Pub. L. 89–97, set out as a note under section 416 of this title.

Amendment subsecs. (a)(1), (c)(1), and (c)(2)(B) of this section by section 344 of Pub. L. 89–97 applicable only with respect to monthly benefits under subchapter II of this chapter for months after August 1965 on the basis of applications for such benefits filed in or after July 1965, see section 344(e) of Pub. L. 89–97, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsecs. (a)(2) and (c)(1)(A) of this section by Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87–64, set out as notes under section 402 of this title.

Subsec. (a)(3) of this section and amendment of subsec. (a)(1) of this section by Pub. L. 87–64 effective August 1, 1961, see sections 102(f) and 109 of Pub. L. 87–64, set out as notes under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 401(c) of Pub. L. 86–778 provided that: "The amendments made by this section [to subsecs. (a)(1)(B) and (c)(3) of this section] shall apply only with respect to monthly benefits under sections 202 and 223 of the Social Security Act [this section and section 402 of this title] for months after the month following the month in which this Act is enacted [Sept. 1960] which are based on the wages and self-employment income of an individual who did not attain the age of fifty in or prior to the month following the month in which this Act is enacted [Sept. 1960], but only where applications for such benefits are filed in or after the month in which this Act is enacted [Sept. 1960]."

Section 402(f) of Pub. L. 86–778 provided that: "The amendments made by subsections (a) and (b) [which inserted provisions in subsec. (a)(1) of this section authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and amended subsec. (a)(2) of this section as set out in the note under this section] shall apply only with respect to benefits under section 223 of the Social Security Act [this section] for the month in which this Act is enacted [Sept. 1960] and subsequent months. The amendment made by subsection (c) [to the first sentence of subsec. (b) of this section] shall apply only in the case of applications for benefits under such section 223 [this section] filed after the seventh month before the month in which this Act is enacted [Sept. 1960]. The amendment made by subsection (d) [to the second sentence of subsec. (b) of this section] shall apply only in the case of applications

for benefits under such section 223 [this section] filed in or after the month in which this Act is enacted [Sept. 1960]. The amendment made by subsection (e) [which redefined the term period of disability in section 416(i)(2) of this title and inserted provisions in section 416(i)(2) of this title prohibiting acceptance of an application, in any case in which section 423(a)(ii) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under this section and providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be] shall apply only in the case of individuals who become entitled to benefits under such section 223 [this section] in or after the month in which this Act is enacted [Sept. 1960]."

Amendment of subsec. (a)(1) of this section by section 403(b) of Pub. L. 86-778, which substituted "whichever of the following months is the earliest: the month in which he dies, the month in which he attains the age of sixty-five, or the third month following the month in which his disability ceases" for "the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of sixty-five", applicable only with respect to benefits under subsec. (a) of this section or section 402(d) of this title for months after Sept. 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for Sept. 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

Section 303(f) of Pub. L. 86-778 provided in part that the amendment of subsec. (a)(2) of this section by section 303(f) of Pub. L. 86-778 shall be effective with respect to individuals who become entitled to benefits under this section after 1960.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (b) and (c) (3) of this section by section 202 of Pub. L. 85-840 applicable with respect to applications for disability insurance benefits under this section filed after December 1957, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

For applicability of subsec. (c) (1) (A) of this section as amended by section 204 of Pub. L. 85-840, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE

Section 103 (d) of act Aug. 1, 1956, provided that:

"(1) The amendment made by subsection (a) [adding section 423-425 of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957.

"(2) For purposes of determining entitlement to a disability insurance benefit for any month after June 1957 and before December 1957, an application for disability insurance benefits filed by any individual after July 1957 and before January 1958 shall be deemed to have been filed during the first month after June 1957 for which such individual would (without regard to this paragraph) have been entitled to a disability insurance benefit had he filed application before the end of such month."

COMPUTATION OF DISABILITY INSURANCE BENEFITS

Section 402(b) of Pub. L. 86-778 provided that:

"Section 223(a)(2) of such Act [subsec. (a)(2) of this section] is amended to read as follows:

"(2) Such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 [section 415 of this title] as though he became entitled to old-age insurance benefits in—

"(A) the first month of his waiting period, or

"(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes so entitled to such disability insurance benefits."

Amendment of subsec. (a)(2) of this section by section 402(b) of Pub. L. 86-778 applicable only with respect to benefits under this section for Sept. 1960, and subsequent months, see section 402(f) of Pub. L. 86-778, set out as a note under this section.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Individuals not insured for disability benefits as determined under subsec. (c)(1) of this section with respect to any month in a quarter deemed to have met such requirements in certain cases, see section 404 of Pub. L. 68-778, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 402, 403, 405, 415, 416, 421, 422, 424a, 425, 1402 of this title; title 20 section 880b-2; title 30 sections 902, 923.

§ 424. Repealed. Pub. L. 85-840, title II, § 206, Aug. 28, 1958, 72 Stat. 1025.

Section, act Aug. 14, 1935, ch. 531, title II, § 224, as added Aug. 1, 1956, ch. 836, title I, § 103 (a), 70 Stat. 816, and amended July 17, 1957, Pub. L. 85-109, § 2 (a), 71 Stat. 308, related to reduction of benefits based on disability.

EFFECTIVE DATE OF REPEAL

Repeal of this section applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

§ 424a. Reduction of disability benefits through receipt of workmen's compensation.

(a) If for any month prior to the month in which an individual attains the age of 62—

(1) such individual is entitled to benefits under section 423 of this title, and

(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State, to periodic benefits for a total or partial disability (whether or not permanent), and the Secretary has, in a prior month, received notice of such entitlement for such month,

the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) such total of benefits under sections 423 and 402 of this title for such month, and

(4) such periodic benefits payable (and actually paid) for such month to such individual under the workmen's compensation law or plan,

exceeds the higher of—

(5) 80 percentum of his "average current earnings", or

(6) the total of such individual's disability insurance benefits under section 423 of this title for such month and of any monthly insurance benefits under section 402 of this title for such month based on his wages and self-employment income, prior to reduction under this section.

In no case shall the reduction in the total of such benefits under sections 423 and 402 of this title for a month (in a continuous period of months) reduce such total below the sum of—

(7) the total of the benefits under sections 423 and 402 of this title, after reduction under this section, with respect to all persons entitled to benefits on the basis of such individual's wages

and self-employment income for such month which were determined for such individual and such persons for the first month for which reduction under this section was made (or which would have been so determined if all of them had been so entitled in such first month), and

(8) any increase in such benefits with respect to such individual and such persons, before reduction under this section, which is made effective for months after the first month for which reduction under this section is made.

For purposes of clause (5), an individual's average current earnings means the larger of (A) the average monthly wage used for purposes of computing his benefits under section 423 of this title, or (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title) for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest. In any case where an individual's wages and self-employment income reported to the Secretary for a calendar year reach the limitations specified in sections 409(a) and 411(b)(1) of this title, the Secretary under regulations shall estimate the total of such wages and self-employment income for purposes of clause (B) of the preceding sentence on the basis of such information as may be available to him indicating the extent (if any) by which such wages and self-employment income exceed such limitations.

(b) If any periodic benefit under a workmen's compensation law or plan is payable on other than a monthly basis (excluding a benefit payable as a lump sum except to the extent that it is a commutation of, or a substitute for, periodic payments), the reduction under this section shall be made at such time or times and in such amounts as the Secretary finds will approximate as nearly as practicable the reduction prescribed by subsection (a) of this section.

(c) Reduction of benefits under this section shall be made after any reduction under subsection (a) of section 403 of this title but before deductions under such section and under section 422(b) of this title.

(d) The reduction of benefits required by this section shall not be made if the workmen's compensation law or plan under which a periodic benefit is payable provides for the reduction thereof when anyone is entitled to benefits under this subchapter on the basis of the wages and self-employment income of an individual entitled to benefits under section 423 of this title.

(e) If it appears to the Secretary that an individual may be eligible for periodic benefits under a workmen's compensation law or plan which would give rise to reduction under this section, he may require, as a condition of certification for payment of any benefits under section 423 of this title to any individual for any month and of any benefits under section 402 of this title for such month based on such individual's wages and self-employment income, that such individual certify (i) whether he has filed or intends to file any claim for such periodic benefits, and (ii) if he has so filed, whether there has been a decision on such claim. The Secretary may, in the absence of evidence to the contrary, rely upon such a certification by such individual that he has not filed and does not intend to file such a claim, or that he has so filed and no final decision thereon has been made, in certifying benefits for payment pursuant to section 405(i) of this title.

(f)(1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 423 of this title and any benefits under section 402 of this title based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Secretary shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this subchapter on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1) of this subsection, the individual's average current earnings (as defined in subsection (a) of this section) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) of this section and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of $1 shall be reduced to the next lower multiple of $1.

(g) Whenever a reduction in the total of benefits for any month based on an individual's wages and self-employment income is made under this section, each benefit, except the disability insurance benefit, shall first be proportionately decreased, and any excess of such reduction over the sum of all such benefits other than the disability insurance benefit shall then be applied to such disability insurance benefit. (Aug. 14, 1935, ch. 531, title II, § 224, as added July 30, 1965, Pub. L. 89–97, title III, § 335, 79 Stat. 406, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 159(a), 81 Stat. 869.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248 inserted in clause (B) of first sentence following par. (8) "(computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title)" preceding "for the five", and added last sentence authorizing the Secretary, in certain cases, to estimate the total of wages and self-employment income for purposes of clause (B) indicating the extent such earnings exceed the limitations in sections 409(a) and 411(b)(1) of this title.

EFFECTIVE DATE OF 1968 AMENDMENTS; DETERMINATION OF AVERAGE CURRENT EARNINGS UPON REDETERMINATION OF BENEFITS SUBJECT TO REDUCTION

Section 159(b) of Pub. L. 90–248 provided that:

"(1) The amendments made by subsection (a) [to subsec. (a) of this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968.

"(2) For purposes of any redetermination which is made under section 224(f) of the Social Security Act [subsec. (f) of this section] in the case of benefits subject to reduction under section 224 of such Act [this section], where such reduction as first computed was effective with respect to benefits for the month in which this Act is enacted [Jan. 1968] or a prior month, the amendments made by subsection (a) of this section [to subsec. (a) of this section] shall also be deemed to have applied in the initial determination of the 'average current earnings' of the individual whose wages and self-employment income are involved."

EFFECTIVE DATE

Section 335 of Pub. L. 89–97 made this section effective with respect to benefits under this subchapter for months after December 1965 based on the wages and self-employment income of individuals entitled to benefits under section 423 of this title whose period of disability (as defined in this subchapter) began after June 1, 1965.

§ 425. Suspension of benefits based on disability.

If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 423 of this title, or that a child who has attained the age of eighteen and is entitled to benefits under section 402(d) of this title, or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 402(e) of this title, or that a widower who has not attained age 62 and is entitled to benefits under section 402(f) of this title, may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 402(d), 402(e), 402(f) or 423 of this title until it is determined (as provided in section 421 of this title) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 421(b) of this title, the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 423(d) of this title. Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this section shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title). (Aug. 14, 1935, ch. 531, title II, § 225, as added Aug. 1, 1956, ch. 836, title I, § 103 (a), 70 Stat. 817, and amended Aug. 28, 1958, Pub. L. 85–840, title II, § 205 (o), 72 Stat. 1025; July 30, 1965, Pub. L. 89–97, title III, § 306(c)(15), 79 Stat. 373; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 104(d)(5), 158(c)(9), 81 Stat. 833, 869.)

AMENDMENTS

1968—Pub. L. 90–248 in first sentence inserted "or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 402(e) of this title, or that a widower who has not attained age 62 and is entitled to benefits under section 402(f) of this title," after "section 402(d) of this title," and substituted "402(d), 402(e), 402(f) or 423" for "423 or 402(d)", and substituted in third sentence reference to "423(d)" for "423(c)(2)".

1965—Pub. L. 89–97 inserted "The first sentence of this section shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title)."

1958—Pub. L. 85–840 provided that whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of this section by section 104 of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90–248, set out as a note under section 402 of this title.

Amendment of this section by section 158(c)(9) of Pub. L. 90–248, applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under section 416 (i) of this title, see section 158(e) of Pub. L. 90–248, set out as a note under section 423 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of this section by section 205 of Pub. L. 85–840 applicable with respect to monthly benefits under this subchapter for months after August 28, 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207 (a) of Pub. L. 85–840, set out as a note under section 416 of this title.

EFFECTIVE DATE

Section applicable only with respect to monthly benefits under this subchapter for months after June 1957, see section 103(a) of act Aug. 1, 1956, set out as a note under section 423 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title and in title 20 section 880b–2.

§ 426. Entitlement to hospital insurance benefits.

(a) Generally.

Every individual who—

(1) has attained the age of 65, and

(2) is entitled to monthly insurance benefits under section 402 of this title or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month for which he meets the conditions specified in

paragraph (2), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2).

(b) Conditions.

For purposes of subsection (a) of this section—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of subchapter XVIII of this chapter on his behalf for inpatient hospital services, post-hospital extended care services, and post-hospital home health services (as such terms are defined in part C of subchapter XVIII of this chapter) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1395f(f) of this title) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of subchapter XVIII of this chapter occurred after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 402 of this title, or to be a qualified railroad retirement beneficiary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(c) Qualified railroad retirement beneficiary.

For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 228s–2 of Title 45. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 228s–2 of Title 45.

(d) Certain uninsured individuals.

For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 426a of this title. (Aug. 14, 1935, ch. 531, title II, § 226, as added July 30, 1965, Pub. L. 89–97, title I, § 101, 79 Stat. 290, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 129(c)(1), 81 Stat. 847.)

AMENDMENTS

1968—Subsec. (b)(1). Pub. L. 90–248 eliminated outpatient hospital diagnostic services from services for which hospital insurance benefits are payable.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248, set out as a note under section 1395d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 426a, 1395c, 1395e, 1359f, 1395h, 1395i–1 of this title and in title 20 section 880b–2.

§ 426a. Transitional provision on eligibility of uninsured individuals for hospital insurance benefits.

(a) Entitlement to benefits.

Anyone who—

(1) has attained the age of 65,

(2) (A) attained such age before 1968, or (B) has not less than 3 quarters of coverage (as defined in this subchapter or section 228e(*l*) of Title 45), whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

(3) is not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to hospital insurance benefits under section 426 of this title, and is not certifiable as a qualified railroad retirement beneficiary under section 228s–2 of Title 45,

(4) is a resident of the United States (as defined in section 410(i) of this title), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(5) has filed an application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary,

shall (subject to the limitations in this section) be deemed, solely for purposes of section 426 of this title, to be entitled to monthly insurance benefits under such section 402 for each month, beginning with the first month in which he meets the requirements of this subsection and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes (or upon filing application for monthly insurance benefits under section 402 of this title would become) entitled to hospital insurance benefits under section 426 of this title or becomes certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of such month shall be deemed to have met such requirements in such month if he files such application before the end of the twelfth month following such month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

(b) Persons ineligible.

The provisions of subsection (a) of this section shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410(a)(17) of this title,

(2) has, prior to the beginning of such first month, been convicted of any offense listed in section 402(u) of this title, or

(3) (A) at the beginning of such first month is covered by an enrollment in a health benefits plan under chapter 89 of Title 5,

(B) was so covered on February 16, 1965, or

(C) could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such chapter and to continue such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person's separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

(c) Authorization of appropriations.

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund under part A of subchapter XVIII of this chapter with respect to individuals who are entitled to hospital insurance benefits under section 426 of this title solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted. (Pub. L. 89–97, title I, § 103, July 30, 1965, 79 Stat. 333; Pub. L. 90–248, title I, § 139, title IV, § 403(h), Jan. 2, 1968, 81 Stat. 854, 932.)

CODIFICATION

Section was not enacted as part of the Social Security Act, which comprises this chapter.

AMENDMENTS

1968—Subsec. (a)(2)(B). Pub. L. 90–248, § 139, substituted "1966" for "1965".

Subsec. (b)(A), (C). Pub. L. 90–248, § 403(h)(1), (2), substituted "chapter 89 of Title 5" and "such chapter" for "the Federal Employees Health Benefits Act of 1959" and "such Act" in subpars. (A) and (C), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 426 of this title.

§ 427. Transitional insured status for purposes of old-age and survivors insurance benefits.

(a) In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 414(a) of this title, the 6 quarters of coverage referred to in so much of paragraph (1) of section 414(a) of this title as follows clause (C) shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 402(a) of this title, and of his wife to benefits under section 402(b) of this title, but, in the case of such wife, only if she attains the age of 72 before 1969 and only with respect to wife's insurance benefits under section 402(b) of this title for and after the month in which she attains such age. For each month before the month in which any such individual meets the requirements of section 414(a) of this title, the amount of his old-age insurance benefit shall, notwithstanding the provisions of section 402(a) of this title, be $46 and the amount of the wife's insurance benefit of his wife shall, notwithstanding the provisions of section 402(b) of this title, be $23.

(b) In the case of any individual who has died, who does not meet the requirements of section 414(a) of this title, and whose widow attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 414(a) of this title and in so much of paragraph (1) thereof as follows clause (C) shall, for purposes of determining her entitlement to widow's insurance benefits under section 402(e) of this title, instead be—

(1) 3 quarters of coverage if such widow attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such widow attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such widow attains the age of 72 in 1968.

The amount of her widow's insurance benefit for each month shall, notwithstanding the provisions of section 402(e) of this title (and section 402(m) of this title), be $46.

(c) In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 402(a) of this title by reason of the application of subsection (a) of this section, who dies, and whose widow attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such widow to widow's insurance benefits under section 402(e) of this title. (Aug. 14, 1935, ch. 531, title II, § 227, as added July 30, 1965, Pub. L. 89–97, title III, § 309(a), 79 Stat. 379, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 102(a), 81 Stat. 827; Dec. 30, 1969, Pub. L. 91–172, title X, § 1003(a), 83 Stat. 740.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–172, § 1003(a)(1), substituted "$46" for "$40", and "$23" for "$20".

Subsec. (b). Pub. L. 91–172, § 1003(a)(2), substituted "$46" for "$40".

1968—Subsec. (a). Pub. L. 90–248, § 102(a)(1), substituted "$40" for "$35" and "$20" for "$17.50".

Subsec. (b). Pub. L. 90–248, § 102(a)(2), substituted "$40" for "$35".

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1003(c) of Pub. L. 91–172 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 102(c) of Pub. L. 90-248 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a) and (b) of this section and to section 428(b)(1), (2), (c)(2), (3)(A), and (3)(B) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968."

EFFECTIVE DATE

Section 309(b) of Pub. L. 89-97 provided that: "The amendment made by subsection (a) [adding this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for and after the second month following the month [July 1965] in which this Act [Pub. L. 89-97] is enacted on the basis of applications filed in or after the month [July 1965] in which this Act [Pub. L. 89-97] is enacted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 880b-2.

§ 428. Benefits at age 72 for certain uninsured individuals.

(a) Eligibility.

Every individual who—

(1) has attained the age of 72,

(2) (A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

(3) is a resident of the United States (as defined in subsection (e) of this section), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 410(i) of this title) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after Sepember 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

(b) Amount of benefits.

(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be $46.

(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be $46 and the amount of the wife's benefit for such month shall be $23.

(c) Reduction for government pension system benefits.

(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) $23.

(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) $46, and

(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) $23.

(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

(d) Suspension for months in which cash payments are made under public assistance.

The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, or

(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month.

(e) Suspension where individual is residing outside the United States.

The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term "United States" means the 50 States and the District of Columbia.

(f) Treatment as monthly insurance benefits.

For purposes of subsections (t) and (u) of section 402 of this title, and of section 1395s of this title, a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 402 of this title.

(g) Annual reimbursement of Federal Old-Age and Survivors Insurance Trust Fund.

There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage.

(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

(h) Definitions.

For purposes of this section—

(1) The term "quarter of coverage" includes a quarter of coverage as defined in section 228e(*l*) of Title 45.

(2) The term "governmental pension system" means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

(3) The term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section 416 of this title without regard to subsections (b) and (f) of section 416 of this title.

(Aug. 14, 1935, ch. 531, title II, § 228, as added Mar. 15, 1966, Pub. L. 89-368, title III, § 302(a), 80 Stat. 67, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 102(b), title II, § 241(a) 81 Stat. 827, 916; Dec. 30, 1969, Pub. L. 91-172, title X, § 1003(b), 83 Stat. 740.)

AMENDMENTS

1969—Subsec. (b)(1). Pub. L. 91-172, § 1003(b)(1), substituted "$46" for "$40".

Subsec. (b)(2). Pub. L. 91-172, § 1003(b)(2), substituted "$46" for "$40" and "$23" for "$20".

Subsec. (c)(2). Pub. L. 91-172, § 1003(b)(3), substituted "$23" for "$20".

Subsec. (c)(3)(A). Pub. L. 91-172, § 1003(b)(4), substituted "$46" for "$40".

Subsec. (c)(3)(B). Pub. L. 91-172, § 1003(b)(5), substituted "$23" for "$20".

1968—Subsec. (b)(1). Pub. L. 90-248, § 102(b)(1), substituted "$40" for "$35".

Subsec. (b)(2). Pub. L. 90-248, § 102(b)(2), substituted "$40" for "$35", and "$20" for $17.50".

Subsec. (c)(2). Pub. L. 90-248, § 102(b)(3), substituted "$20" for "$17.50".

Subsec. (c)(3)(A). Pub. L. 90-248, § 102(b)(4), substituted "$40" for "$35".

Subsec. (c)(3)(B). Pub. L. 90-248, § 102(b)(5), substituted "$20" for "$17.50".

Subsec. (d)(1). Pub. L. 90-248, § 241(a), deleted "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XVI of this chapter,".

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable for months after Dec. 1969, see section 1003(c) of Pub. L. 91-172, set out as a note under section 427 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (b)(1), (2), (c)(2), (3)(A), (3)(B) by section 102(b)(1)—(5) of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for months after January 1968, see section 102(c) of Pub. L. 90-248, set out as a note under section 427 of this title.

APPLICATIONS FOR TRANSITIONAL COVERAGE OF UNINSURED INDIVIDUALS FOR HOSPITAL INSURANCE BENEFITS

Section 302(b) of Pub. L. 89-368 provided that: "For purposes of paragraph (4) of section 228(a) of the Social Security Act (added by subsection (a) of this section) [subsec. (a)(4) of this section], an application filed under section 103 of the Social Security Amendments of 1965 [set out as a note under section 426 of this title] before July 1966 shall be regarded as an application under such section 228 [this section] and shall, for purposes of such paragraph and of the last sentence of such section 228(a) [subsec. (a) of this section], be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 405 of this title and in title 20 section 880b-2.

§ 429. Benefits in case of members of the uniformed services.

(a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1967, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid, in each calendar quarter occurring after 1967 in which he was paid wages for service as a member of a uniformed service (as defined in section 410(m) of this title) which was included in the term "employment" as defined in section 410(a) of this title as a result of the provisions of section 410(*l*) of this title, wages (in addition to the wages actually paid to him for such service) of—

(1) $100 if the wages actually paid to him in such quarter for such services were $100 or less,

(2) $200 if the wages actually paid to him in such quarter for such services were more than $100 but not more than $200, or

(3) $300 in any other case.

(b) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund annually, as benefits under this subchapter and part A of subchapter XVIII of this chapter are paid after December 1967, such sums as the Secretary determines to be necessary to meet (1) the additional costs, resulting from subsection (a) of this section, of such benefits (including lump-sum death payments), (2) the additional administrative expenses resulting therefrom, and (3) any loss in interest to such trust funds resulting from the payment of such amounts. Such additional costs shall be determined after any increases in such benefits arising from the application of section 417 of this title have been made. (Aug. 14, 1935, ch. 531, title II, § 229, as added Jan. 2, 1968, Pub. L. 90–248, title I, § 106, 81 Stat. 833.)

SUBCHAPTER III.—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 5 section 8505.

§ 501. Use of available funds.

The amounts made available pursuant to section 1101(c)(1)(A) of this title for the purpose of assisting the States in the administration of their unemployment compensation laws shall be used as hereinafter provided. (Aug. 14, 1935, ch. 531, title III, § 301, 49 Stat. 626; Apr. 19, 1939, ch. 73, 53 Stat. 581; Sept. 13, 1960, Pub. L. 86–778, title V, § 524(a), 74 Stat. 982.)

AMENDMENTS

1960—Pub. L. 86–778 eliminated provisions which prescribed specific sums for fiscal years 1936–1939 and for each fiscal year thereafter and inserted provisions relating to amounts made available pursuant to section 1101(c)(1)(A) of this title.

1939—Act Apr. 19, 1939, provided increased appropriation for fiscal year ending June 30, 1939, and for each fiscal year thereafter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 45, section 363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46–314 of the District of Columbia Code.

§ 502. Payments to States; computation of amounts.

(a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. The Secretary's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a) of this section, pay, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified. (Aug. 14, 1935, ch. 531, title III, § 302, 49 Stat. 626; Aug. 10, 1939, ch. 666, title III, § 301, 53 Stat. 1378; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F. R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065.)

REFERENCES IN TEXT

Federal Unemployment Tax Act, referred to in subsec. (a), was formerly classified to sections 1600–1611 of Title 26, Internal Revenue Code, 1939. Said sections were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3301—3308 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101—1110 of this title," and inserted the word "efficient" preceding "administration".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Labor, and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 6, §§ 1, 2, 15 F. R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2, set out in the Appendix to Title 5.

Section 1 of 1949 Reorg. Plan No. 2, also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by 1946, Reorg. Plan No. 2. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in the Appendix to Title 5.

CROSS REFERENCES

Withholding amounts from certification for payment, see note under section 363 of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 504, 1490a of this title; title 45 section 363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46-314 of the District of Columbia Code.

§ 503. State laws, provisions required; stopping payments on failure to comply with law.

(a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 1606 (b) of Title 26, Internal Revenue Code of 1939), immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 1104 of this title; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 1606 (b) of Title 26, Internal Revenue Code of 1939: *Provided,* That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further,* That the amounts specified by section 1103 (c) (2) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the compensation law and public employment offices; and

(6) The making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 502 of this title solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 502 of this title, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of such State law.

(b) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a) of this section;

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided,* That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further,* That any costs may be paid with respect to any claimant by a State and included as costs of administration of its law.

(c) The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) That such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the

expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes; or

(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

(Aug. 14, 1935, ch. 531, title III, § 303, 49 Stat. 626; June 25, 1938, ch. 680, § 13 (g), 52 Stat. 1112; June 20, 1939, ch. 227, § 18, 53 Stat. 848; Aug. 10, 1939, ch. 666, title III, § 302, 53 Stat. 1378; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 416 (c), 60 Stat. 991; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F. R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 405 (b), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 5 (a) (1), 68 Stat. 673.)

REFERENCES IN TEXT

Federal Unemployment Tax Act, referred to in subsec. (a), was formerly classified to sections 1600—1611 of Title 26, Internal Revenue Code, 1939. Said sections were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3301—3308 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Section 1606 (b) of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a) (4, 5), was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by section 3305(b) of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1954—Subsec. (a)(5). Act Aug. 5, 1954, made it clear that the funds credited to the State account may, subject to certain restrictions, be used for administrative expenses of the State in connection with its unemployment compensation law.

1950—Subsec. (b). Act Aug. 28, 1950, added provisos.

1946—Subsec. (a)(5). Act Aug. 10, 1946, added proviso allowing payment of disability benefits.

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101—1110 of this title", amended pars. (1), (4), and (5) generally, and added pars. (8) and (9).

Subsec. (c)(2). Act June 20, 1939, substituted "unemployment" for "employment".

1938—Subsec. (c). Act June 25, 1938, added subsec. (c).

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Labor under subsec. (a)(1) of this section transferred to United States Civil Service Commission, see section 4728(a)(2)(B) of this title.

All functions of all other officers of the Department of Labor and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 6, §§ 1, 2, 15 F. R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2, set out in the Appendix to Title 5.

Section 1 of 1949 Reorg. Plan No. 2 also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

CROSS REFERENCES

Withdrawal as breach of conditions, see note under section 363 of Title 45, Railroads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 504, 1103 of this title; title 5 section 8506; title 29 section 49d; title 45 section 363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46-314 of the District of Columbia Code.

§ 504. Judicial review.

(a) Finding by Secretary of Labor; petition for review; filing of record.

Whenever the Secretary of Labor—

(1) finds that a State law does not include any provision specified in section 503(a) of this title, or

(2) makes a finding with respect to a State under subsection (b) or (c) of section 503 of this title,

such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of Title 28.

(b) Findings of fact by the Secretary of Labor; new or modified findings.

The findings of fact by the Secretary of Labor, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Affirmance or setting aside of Secretary's action; review by Supreme Court.

The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(d) Stay of Secretary's action.

(1) The Secretary of Labor shall not withhold any certification for payment to any State under section 502 of this title until the expiration of 60 days after the Governor of the State has been notified of the action referred to in paragraph (1) or (2) of subsection (a) of this section or until the State has filed a petition for review of such action, whichever is earlier.

(2) The commencement of judicial proceedings under this section shall stay the Secretary's action for a period of 30 days, and the court may thereafter grant interim relief if warranted, including a further stay of the Secretary's action and including such other relief as many be necessary to preserve status or rights.

(e) Preference; expeditious determination.

Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary or the State, shall receive a preference and shall be heard and determined as expeditiously as possible. (Aug. 14, 1935, ch. 531, title III, § 304, as added Aug. 10, 1970, Pub. L. 91–373, title I, § 131(a), 84 Stat. 703.)

SUBCHAPTER IV.—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

AMENDMENTS

1968—Pub. L. 90–248, title II, § 240(a), Jan. 2, 1968, 81 Stat. 911, provided for grants for child-welfare services in the heading of the subchapter.

1962—Pub. L. 87–543, title I, § 104(a)(1), July 25, 1962, 76 Stat. 185, substituted "Aid and Services to Needy Families with Children" for "Aid to Dependent Children" in the heading of the subchapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1301, 1306, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1382, 1396b, 1396d of this title.

PART A.—AID TO FAMILIES WITH DEPENDENT CHILDREN

AMENDMENTS

1968—Pub. L. 90–248, title II, § 240(b), Jan. 2, 1968, 81 Stat. 911, added part A heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 428, 622, 644, 1301, 1306, 1308, 1309, 1311, 1315, 1316, 1318, 1319, 1382, 1395v, 1396a, 1396b of this title; title 31 section 665.

§ 601. Appropriations.

For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children. (Aug. 14, 1935, ch. 531, title IV, § 401, 49 Stat. 627; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 312(a), 70 Stat. 848; July 25, 1962, Pub. L. 87–543, title I, § 104 (a)(4), (c)(2), 76 Stat. 185, 186; Jan. 2, 1968, Pub. L. 90–248, title II, § 241(b)(1), 81 Stat. 916.)

AMENDMENTS

1968—Pub. L. 90–248 substituted in first sentence "part" for "subchapter".

1962—Pub. L. 87–543 substituted in the second sentence "aid and services to needy families with children" for "aid to dependent children", and inserted in the first sentence "and rehabilitation" following "financial assistance" and "or retain capability for" following "attain".

1956—Act Aug. 1, 1956, restated the purpose to include encouragement of care of dependent children in their own homes or in the homes of relatives, and authorized services to needy dependent children and the parents or relatives to help maintain and strengthen family life and to help such parents or relatives to attain the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS IN EFFECT JAN. 1, 1968; AUTOMATIC CONFORMITY TO AMENDMENTS

Section 240(h) of Pub. L. 90–248 provided that: "Each State plan approved under title IV of the Social Security Act [this subchapter] as in effect on the day preceding the date of the enactment of this Act [Jan. 2, 1968] shall be deemed, without the necessity of any change in such plan, to have been conformed with the amendments made by subsections (a) and (b) of this section [amending subchapter IV and enacting part A heading]."

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

Section 104(b) of Pub. L. 87–543 provided that: "Each State plan approved under title IV of the Social Security Act [this subchapter] and in effect on the date of the enactment of this Act [July 25, 1962] shall be deemed for purposes of such title [this subchapter], without the necessity of any change in such plan, to have been conformed with the amendments made by subsection (a) of this section [to sections 601—604, 606—608, 1202 and 1352 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 609 of this title.

§ 602. State plans for aid and services to needy families with children; contents; approval by Secretary.

(a) A State plan for aid and services to needy families with children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness; (5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual

employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community services aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; (8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 632(b)(2) and (3) of this title; and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income;

except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such persons were met by the furnishing of aid under the plan;

(9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to families with dependent children; (10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1952, provide for prompt notice to appropriate law-enforcement officials of the furnishing of aid to families with dependent children in respect of a child who has been deserted or abandoned by a parent; (12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title; (13) provide a description of the services which the State agency makes available to maintain and strengthen family life for children, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; (14) provide for the development and application of a program for such family services, as defined in section 606(d) of this title, and child-welfare services, as defined in section 625 of this title, for each child and relative who receives aid to families with dependent children, and each appropriate individual (living in the same home as a relative and child receiving such aid whose needs are taken into account in making the determination under clause (7)), as may be necessary in the light of the particular home conditions and other needs of such child, relative, and individual, in order to assist such child, relative, and individual to attain or retain capability for self-support and care and in order to maintain and strengthen

family life and to foster child development; (15) provide—

(A) for the development of a program for each appropriate relative and dependent child receiving aid under the plan, and each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), with the objective of—

(i) assuring, to the maximum extent possible, that such relative, child, and individual will enter the labor force and accept employment so that they will become self-sufficient, and

(ii) preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life,

(B) for the implementation of such programs by—

(i) assuring that such relative, child, or individual who is referred to the Secretary of Labor pursuant to clause (19) is furnished child-care services and that in all appropriate cases family planning services are offered them, and

(ii) in appropriate cases, providing aid to families with dependent children in the form of payments of the types described in section 606(b)(2) of this title, and

(C) that the acceptance by such child, relative, or individual of family planning services provided under the plan shall be voluntary on the part of such child, relative, or individual and shall not be a prerequisite to eligibility for or the receipt of any other service or aid under the plan,

(D) for such review of each such program as may be necessary (as frequently as may be necessary, but at least once a year) to insure that it is being effectively implemented.

(E) for furnishing the Secretary with such reports as he may specify showing the results of such programs, and

(F) to the extent that such programs under this clause or clause (14) are developed and implemented by services furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have; (17) provide—

(A) for the development and implementation of a program under which the State agency will undertake—

(i) in the case of a child born out of wedlock who is receiving aid to families with dependent children, to establish the paternity of such child and secure support for him, and

(ii) in the case of any child receiving such aid who has been deserted or abandoned by his parent, to secure support for such child from such parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

(B) for the establishment of a single organizational unit in the State agency or local agency administering the State plan in each political subdivision which will be responsible for the administration of the program referred to in clause (A); (18) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State agency in administering the program referred to in clause (17)(A), including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the State agency or local agency administering the State plan; (19) provide—

(A) for the prompt referral to the Secretary of Labor or his representative for participation under a work incentive program established by part C of—

(i) each appropriate child and relative who has attained age sixteen and is receiving aid to families with dependent children,

(ii) each appropriate individual (living in the same home as a relative and child receiving such aid) who has attained such age and whose needs are taken into account in making the determination under section 602(a)(7) of this title, and

(iii) any other person claiming aid under the plan (not included in clauses (i) and (ii), who, after being informed of the work incentive programs established by part C, requests such referral unless the State agency determines that participation in any of such programs would be inimical to the welfare of such person or the family;

except that the State agency shall not so refer a child, relative, or individual under clauses (i) and (ii) if such child, relative, or individual is—

(iv) a person with illness, incapacity, or advanced age,

(v) so remote from any of the projects under the work incentive programs established by part C that he cannot effectively participate under any of such programs,

(vi) a child attending school full time, or

(vii) a person whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household:

(B) that aid under the plan will not be denied by reason of such referral or by reason of an individual's participation on a project under the program established by section 632(b)(2) or (3) of this title;

(C) for arrangements to assure that there will be made a non-Federal contribution to the work

incentive programs established by part C by appropriate agencies of the State or private organizations of 20 per centum of the cost of such programs, as specified in section 635(b) of this title;

(D) that (i) training incentives authorized under section 634 of this title, and income derived from a special work project under the program established by section 632(b)(3) of this title shall be disregarded in determining the needs of an individual under section 602(a)(7) of this title, and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 632(b)(2) or (3) of this title shall be taken into account;

(E) that, with respect to any individual referred pursuant to subparagraph (A) who is participating in a special work project under the program established by section 632(b)(3) of this title, (i) the State agency, after proper notification by the Secretary of Labor, will pay to such Secretary (at such times and in such manner as the Secretary of Health, Education, and Welfare prescribes) the money payments such State would otherwise make to or on behalf of such individual (including such money payments with respect to such individual's family), or 80 per centum of such individual's earnings under such program, whichever is lesser and (ii) the State agency will supplement any earnings received by such individual by payments to such individual (which payments shall be considered aid under the plan) to the extent that such payments when added to the individual's earnings from his participation in such special work project will be equal to the amount of the aid that would have been payable by the State agency with respect to such individual's family had he not participated in such special work project, plus 20 per centum of such individual's earnings from such special work project; and

(F) that if and for so long as any child, relative, or individual (referred to the Secretary of Labor pursuant to subparagraph (A)(i) and (ii) and section 607(b)(2) of this title) has been found by the Secretary of Labor under section 633(g) of this title to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 606(b)(2) of this title (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 608 of this title will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

except that the State agency shall, for a period of sixty days, make payments of the type described in section 606(b)(2) of this title (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; (20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 608 of this title; (21) provide that the State agency will report to the Secretary, at such times (not less often than once each calendar quarter) and in such manner as the Secretary may prescribe—

(A) the name, and social security account number, if known, of each parent of a dependent child or children with respect to whom aid is being provided under the State plan—

(i) against whom an order for the support and maintenance of such child or children has been issued by a court of competent jurisdiction but who is not making payments in compliance or partial compliance with such order, or against whom a petition for such an order has been filed in a court having jurisdiction to receive such petition, and

(ii) whom it has been unable to locate after requesting and utilizing information included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 405 of this title,

(B) the last known address of such parent and any information it has with respect to the date on which such parent could last be located at such address, and

(C) such other information as the Secretary may specify to assist in carrying out the provisions of section 610 of this title;

(22) provide that the State agency will, in accordance with standards prescribed by the Secretary, cooperate with the State agency administering or supervising the administration of the plan of another State under this part—

(A) in locating a parent residing in such State (whether or not permanently) against whom a petition has been filed in a court of competent

jurisdiction of such other State for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

(B) in securing compliance or good faith partial compliance by a parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State:

and (23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a) of this section; compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15). (Aug. 14, 1935, ch. 531, title IV, § 402, 49 Stat. 627; Aug. 10, 1939, ch. 666, title IV, § 401, 53 Stat. 1379. 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 2, § 321, pt. 6, § 361 (c), d), 64 Stat. 549, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 312 (b), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, §§ 103, 104(a) (2), (3) (A), (B), (5) (A), 106(b), 76 Stat. 185, 188; July 30, 1965, Pub. L. 89-97, title IV, §§ 403(b), 410, 79 Stat. 418, 423; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 201(a), (b), 202(a), (b), 204(b), (e), 205(a), 210(a) (2), 211(a), 213(b), 81 Stat. 877, 879, 881, 890, 892, 895, 896, 898.)

AMENDMENTS

1968—Subsec. (a) (5). Pub. L. 90-248, § 210(a) (2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a) (7). Pub. L. 90-248, § 202(b), substituted introductory phrase "except as may be otherwise provided in clause (8)" for former concluding text that "except that, in making such determination, (A) the State agency may disregard not more than $50 per month of earned income of each dependent child under the age of 18 but not in excess of $150 per month of earned income of such dependent children in the same home, (B) the State agency may, subject to limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (C) the State agency may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than $5 of any income" and required the consideration of other income and resources of any other individual (living in the same home as the child and relative) whose needs the State determined should be considered in determining the need of the child or relative claiming aid.

Subsec. (a) (8). Pub. L. 90-248, § 202(b), added par. (8). Former par. (8) redesignated (9).

Subsec. (a) (8) (A). Pub. L. 90-248, § 204(e), provided that clause (ii) shall not apply to earned income derived from participation on a project maintained under programs established by section 632(b) (2) and (3) of this title.

Subsec. (a) (9)—(12). Pub. L. 90-248, § 202(a), redesignated former pars. (8)—(11) as (9)—(12), respectively. Former pars. (9)—(12) redesignated (10)—(13), respectively.

Subsec. (a) (13). Pub. L. 90-248, §§ 201(a) (2), 202(a), struck out "(if any)" following "description of the services" and redesignated former par. (12) as (13), respectively. Former par. (13) redesignated (14).

Subsec. (a) (14). Pub. L. 90-248, § 201(a) (1), substituted "family services, as defined in section 606d of this title, and child-welfare services, as defined in section 625 of this title," for "welfare and related services" and "other needs of such child, relative, and individual to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development" for "other needs of such child, and provided for coordination of such programs, and any other services provided for children under the State plan, with the child-welfare services plan developed as provided in sections 721—728 of this title, with a view toward providing welfare and related services which will best promote the welfare of such child and his family" and extended the program to each relative and each appropriate individual (living in the same home as a relative and child receiving such aid whose needs are taken into account in making the determination under clause (7)).

Pub. L. 90-248, § 202(a), redesignated former par. (13) as (14).

Subsec. (a) (15)—(23). Pub. L. 90-248, §§ 201(a) (1) (C), 204(b), 205(a), 211(a), 213(b), added cls. (15)—(18), (19), (20), (21) and (22), and (23), respectively.

Subsec. (c). Pub. L. 90-248, § 201(b), added subsec. (c).

1965—Subsec. (a) (7). Pub. L. 89-97, §§ 403(b), 410, added clause (C) placing a ceiling of $5 upon the amount of any income which the state may disregard before disregarding the amounts referred to in (A) and (B); and designated as clause (B) the existing provision following the first semicolon which authorized the state agency, in making its determination, to permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and inserted, before such provision, clause (A) which authorized the state agency to disregard not more than $50 per month of earned income of each dependent child under the age of 18 but not in excess of $150 per month of earned income of such dependent children in the same home, respectively.

1962—Pub. L. 87-543, § 104(a) (2), substituted "aid and services to needy families with children" for "aid to dependent children" in the catchline.

Subsec. (a). Pub. L. 87-543, §§ 103, 104(a) (3) (A), (5) (A), 106(b), substituted "aid and services to needy families with children" for "aid to dependent children", in the opening provisions, and "aid to families with dependent children" for "aid to dependent children" wherever appearing in clauses (4), (7)—(10), added the provision respecting the consideration of expenses reasonably attributable to the earning of income and the exception provision in clause (7), and added clause (13).

Subsec. (b). Pub. L. 87-543, § 104(a) (3) (B), substituted "aid to families with dependent children" for "aid to dependent children."

1956—Subsec. (a). Act Aug. 1, 1956, added clause (12).

1950—Subsec. (a). Act Aug. 28, 1950, § 321 (a), (b), substituted in cl. (4) "provide for granting * * * with reasonableness" for "provide for granting to any individual, whose claim with respect to aid to a dependent child is denied," struck out "and" preceding cl. (8) and a semicolon after it, and added cls. (9)—(11).

Subsec. (b)(2). Act Aug. 28, 1950, § 321(c), prevented denial of aid in cases where the child of parents normally resident in the State happens to be born across the State line.

1939—Subsec. (a). Act Aug. 10, 1939, amended cl. (5) generally, and added cls. (7) and (8).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 201(g) of Pub. L. 90-248 provided that:

"(1) The amendments made by subsections (a), (b), (d), (e), and (f) of this section [to subsecs. (a)(13)—(18), (c) of this section and sections 603(a)(3), (c), 606 (d) and 608(d) of this title] shall be effective July 1, 1968 (or earlier if the State plan so provides); except that (A) if on the date of enactment of this Act [Jan. 2, 1968] the agency of a State referred to in section 402(a)(3) of the Social Security Act [subsec. (a)(3) of this section] is different from the agency of such State responsible for administering the plan for child-welfare services developed pursuant to part B of title IV of the Social Security Act [part B of this subchapter] the provisions of section 402(a)(15)(F) of such Act [subsec. (a)(15)(F) of this section] added thereto by subsection (a) of this section) shall not apply with respect to such agencies but only so long as such agencies of the State are different, and (B) if on such date the local agency administering the plan of a State under part A of title IV of such Act [part A of this subchapter] in a political subdivision is different from the local agency in such subdivision administering the State's plan for child-welfare services developed pursuant to part B of title IV of such Act [part B of this subchapter] the provisions of such section 402 (a)(15)(F) [subsec. (a)(15)(F) of this section] shall not apply with respect to such agencies but only so long as such local agencies are different.

"(2) The amendment made by subsection (c) [to section 603(a)(3)(A) of this title], shall apply with respect to services furnished after June 30, 1968, or furnished after such earlier date as the State plan may provide with respect to the amendment made by paragraph (1) of this subsection."

Section 202(b) of Pub. L. 90-248 provided that amendment of subsec. (a)(7) and enactment of subsec. (a)(8) of this section by such section 202(b) shall be effective July 1, 1969.

Section 204(c)(1) of Pub. L. 90-248 provided that: "The amendment made by subsection (b) [enacting subsec. (a)(19) of this section] shall in the case of any State be effective on July 1, 1968, or if a statue of such State prevents it from complying with the requirements of such amendment on such date, such amendment shall with respect to such State be effective on July 1, 1969; except such amendment shall be effective earlier (in the case of any State), but not before April 1, 1968, if a modification of the State plan to comply with such amendment is approved on an earlier date."

Amendment of subsec. (a)(5) by section 210(a)(2) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under part A of this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as a note under section 302 of this title.

Section 211(a) of Pub. L. 90-248 provided in part that enactment of subsec. (a)(21) and (22) shall be effective Jan. 1, 1969.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 403(b) of Pub. L. 89-97 provided that the amendment of subsec. (a)(7) of this section by said section was effective October 1, 1965.

Section 410 of Pub. L. 89-97 provided that the amendment of subsec. (a)(7) of this section by said section was effective July 1, 1965.

EFFECTIVE DATE OF 1962 AMENDMENT

Enactment of subsec. (a)(13) and amendment of subsec. (a)(7) of this section by sections 103, 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Subsecs. (a) and (c) of section 321 of act Aug. 28, 1950, provided in part that amendments of subsections (a) and (b) of this section shall become effective as of July 1, 1951.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, adding clauses (7) and (8) to subsec. (a) was made effective July 1, 1941, by section 401 (b) of act Aug. 10, 1939. Clause (5) of such subsec. was amended by act Aug. 10, 1939 without specific provision as to effective date.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS COMPLIANCE WITH SUBSEC. (a)(7) REQUIREMENTS DURING PERIOD AFTER DEC. 31, 1967, AND PRIOR TO JULY 1, 1969

Section 202(c) of Pub. L. 90-248 provided that: "A State whose plan under section 402 of the Social Security Act [this section] has been approved by the Secretary shall not be deemed to have failed to comply substantially with the requirements of section 402(a)(7) of such Act [subsec. (a)(7) of this section] (as in effect prior to July 1, 1969) for any period beginning after December 31, 1967, and ending prior to July 1, 1969, if for such period the State agency disregards earned income of the individuals involved in accordance with the requirements specified in section 402(a)(7) and (8) of such Act [subsecs. (a)(7), (8) of this section] as amended by this Act."

STATE PLANS TO DISREGARD EARNED INCOME OF INDIVIDUALS IN DETERMINATION OF NEED FOR AID; EFFECTIVE DATE

Section 202(d) of Pub. L. 90-248 provided that: "Effective with respect to quarters beginning after June 30, 1968, in determining the need of individuals claiming aid under a State plan approved under part A of title IV of the Social Security Act [part A of this subchapter], the State shall apply the provisions of such part notwithstanding any provisions of law (other than such Act [this chapter]) requiring the State to disregard earned income of such individuals in determining need under such State plan."

DISREGARDING INCOME IN DETERMINATION OF NEED IN PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

Section 248(c) of Pub. L. 90-248 provided that: "Effective July 1, 1969, neither the provisions of clauses (A) through (C) of section 402(a)(7) of such Act [subsec. (a)(7) of this section] as in effect before the enactment of this Act [Jan. 2, 1968] nor the provisions of section 402(a)(8) of such Act as amended by section 202(b) of this Act [subsec. (a)(8) shall apply in the case of Puerto Rico, the Virgin Islands, or Guam. Effective no later than July 1, 1972, the State plans of Puerto Rico, the Virgin Islands, and Guam approved under section 402 of such Act [this

section] shall provide for the disregarding of income in making the determination under section 402(a)(7) of such Act [subsec. (a)(7) of this section] in amounts (agreed to between the Secretary and to State agencies involved) sufficiently lower than the amounts specified in section 402(a)(8) of such Act [subsec. (a)(8) of this section] to reflect appropriately the applicable differences in income levels."

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

STATE PLANS IN EFFECT JULY 25, 1962; AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of opening provisions and clauses (4), (7)—(10) of subsec. (a) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 603, 604, 606, 607, 608, 609, 610, 622, 633, 636, 643, 644, 1202, 1308, 1315, 1352 of this title; title 25 sections 683, 686, 689.

§ 603. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 606(b)(2) of this title are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) any of the services described in clauses (14) and (15) of section 602(a) of this title which are provided to any child or relative who is receiving aid under the plan, or to any other individual (living in the same home as such relative and child) whose needs are taken into account in making the determination under clause (7) of such section,

(ii) any of the services described in clauses (14) and (15) of section 602(a) of this title which are provided to any child or relative who is applying for aid to families with dependent children or who, within such period or periods as the Secretary may prescribe, has been or is likely to become an applicant for or recipient of such aid, or

(iii) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of the remainder of such expenditures.

The services referred to in subparagraph (A) shall include only—

(C) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided,* That no funds authorized under this part shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (D), if provided by such staff, and

(D) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (C) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved; and except that, to the extent specified by the Secretary, child-welfare services, family planning services, and family services may be provided from sources other than those referred to in subparagraphs (C) and (D). The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) applies shall be determined in accordance with such methods and procedures as may be permitted by the Secretary.

(4) Repealed. Pub. L. 90–248, title II, § 201(e)(3), Jan. 2, 1968, 81 Stat. 880.

(5) in the case of any State, an amount equal to the sum of—

(A) 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children in the form of payments or care specified in paragraph (1) of section 606(e) of this title, and

(B) 75 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children in the form of services specified in paragraph (1) of section 606(e) of this title.

The number of individuals with respect to whom payments described in section 606(b)(2) of this title are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 10 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 10 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 602(a)(19)(F) of this title.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(Aug. 14, 1935, ch. 531, title IV, § 403, 49 Stat. 628; Aug. 10, 1939, ch. 666, title IV, § 402, 53 Stat. 1380; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title V, §§ 502, 504, 60 Stat. 992, 993; Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794; June 14, 1948, ch. 468, § 3(b), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 2, § 322(a), pt. 6, § 361(c, d), 64 Stat. 550, 558; July 18, 1952, ch. 945, § 8(b), 66 Stat. 778; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303(a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 302, 312(c), 342, 351(a), 70 Stat. 847, 849, 852, 854; Aug. 28, 1958, Pub. L. 85–840, title V, § 502, 72 Stat. 1048; July 25, 1962, Pub. L. 87–543, title I, §§ 101 (a)(2), (b)(2)(A)—(C), 104 (a)(3)(C), 108 (b), (c), 76 Stat. 174, 180, 185, 190; July 30, 1965, Pub. L. 89–97, title I, § 122, title IV, § 401(c), 79 Stat. 353, 415; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 201 (c)—(e), 205(b), 206(a), 207(b), 208, 241(b) (2), (3), 81 Stat. 879, 880, 892—894, 916; June 28, 1968, Pub. L. 90–364, title III, § 301, 82 Stat. 273; July 9, 1969, Pub. L. 91–41, § 3, 83 Stat. 45.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3) (C), (D), is classified to sections 31—42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(3)(C) refers to the Vocational Rehabilitation Act.

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-41, § 3(b), struck out from the introductory text "(subject to subsection (d))" following "Secretary of the Treasury shall".

Subsec. (d). Pub. L. 91-41, § 3(a), repealed subsec. (d) which imposed, for any quarter after June 1969, certain limitations on the number of dependent children under eighteen who, because of a parent's absence, may receive aid to families with dependent children with Federal financial participation.

1968—Subsec. (a). Pub. L. 90-248, §§ 207(b), 208(a) increased the percentage limitation from 5 to 10 and provided for the computation of such 10 per centum without taking into account individuals with respect to whom payments are made for any month in accordance with section 602(a)(19)(F) of this title, and substituted "shall (subject to subsection (d) of this section) pay" for "shall pay" in the text preceding par. (1).

Subsec. (a)(1)(B). Pub. L. 90-248, § 205(b), designated existing provisions as cl. (i), inserted therein "(other than such aid in the form of foster care)" and added cl. (ii).

Subsec. (a)(3). Pub. L. 90-248, § 201(d)(4), (e)(2), struck out in the last sentence reference to subpar. (C) and from the introduction "whose State plan approved under section 602 of this title meets the requirements of subsection (c)(1) of this section" after "in the case of any State plan", respectively.

Subsec. (a)(3)(A). Pub. L. 90-248, § 201(c), substituted provisions of cls. (i) and (ii) for Federal payments for services described in section 602(a)(14) and (15) of this title to any child or relative who is receiving aid under the State plan, or to any other individual (living in the same home as such relative and child) or for such services to any child or relative who is applying for aid to families with dependent children or who has been or is likely to become an applicant for or recipient of such aid for former cls. (i)-(3) respecting such Federal payments for subsec. (c)(1) services to any relative with whom any dependent child (applying for or receiving aid) is living to help the relative attain or retain capability for self-support or self-care, or services to maintain and strengthen family life for such child; other services to prevent or reduce dependency; and such cl. (ii) and subsec. (c)(1) services as are appropriate for any relative with whom any child (who has been or is likely to become an applicant for or recipient of aid) is living, or as appropriate for such a child, if such services are requested by such relative, and redesignated former cl. (iv) as (3).

Subsec. (a)(3)(B). Pub. L. 90-248, § 201(c), (d)(1)(A), struck out former subpar. (B) provisions for Federal payments of one-half of expenditures (not included under subpar. (A)) for services provided any relative, with whom any child (who has been or is likely to become an applicant for or recipient of aid) is living, or to such child, if such services are requested by such relative or for services provided to any child who is an applicant for or recipient of such aid, or to any relative with whom such a child is living, and redesignated former subpar. (C) as (B), respectively.

Subsec. (a)(3)(C). Pub. L. 90-248, § 201(d)(1)(A), (B), (2), redesignated former subpar. (D) as (C), substituted therein reference to subpar. "(D)" for "(E)", and struck out in the introductory text to subpar. (C) reference to subpar. "(B)", respectively. Former subpar. (C) redesignated (B).

Subsec. (a)(3)(D). Pub. L. 90-248, §§ 201(d)(1)(A), (C), (3), 241(b)(2), redesignated former subpar. (E) as (D), substituted in the exception provision following subpar. (D) reference to subpar. "(C)" for "(D)", and added following subpar. (D) "; and except that, to the extent specified by the Secretary, child-welfare services, family planning services, and family services may be provided from sources other than those referred to in subparagraphs (C) and (D)", respectively. Former subpar. (D) redesignated (C), and substituted in proviso "part" for "subchapter".

Subsec. (a)(3)(E). Pub. L. 90-248, § 201(d)(1)(A), redesignated former subpar. (E) as (D).

Subsec. (a)(4). Pub. L. 90-248, § 201(e)(3), 81 Stat. 880, repealed par. (4) provisions respecting payments when approved State plan did not meet subsec. (c)(1) requirements in an amount equal to one-half of the total of sums expended during the quarter as found necessary by the Secretary for proper and efficient administration of the State plan.

Subsec. (a)(5). Pub. L. 90-248, § 206(a), added par. (5)

Subsec. (c). Pub. L. 90-248, § 201(e)(1), repealed subsec. (c) which set forth provisions respecting State qualification for subsec. (a)(3) payments when State plan required State agencies to provide services to maintain and strengthen family life for children and to help relatives with whom children (who are applicants for or recipients of aid) are living to attain capability for self-support or self-care and for stopping such subsec. (a)(3) payments after notice and hearing for noncompliance with such requirements in the administration and supervision of the State plan but providing subsec. (a)(4) payments instead.

Subsec. (c)(2). Pub. L. 90-248, § 241(b)(3), substituted in last sentence "part" for "subchapter".

Subsec. (d). Pub. L. 90-364 denominated existing provisions as par. (1) and in par. (1) as so denominated inserted "(except the succeeding paragraphs of this subsection)" immediately after "chapter" and substituted "June 30, 1969" for "June 30, 1968", and added pars. (2) and (3).

Subsec. (d). Pub. L. 90-248, § 208(b), added subsec. (d).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(c), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and changed the formula by which the federal share of aid to families with dependent children is determined by increasing the share of the average monthly assistance payment from 14/17ths of the first $17 to 5/6ths of the first $18 of such payment and raised the ceiling for federal participation from $30 to $32 a month per recipient, respectively.

Subsec. (a)(2). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

1962—Subsec. (a). Pub. L. 87-543, § 101(a)(2), substituted "aid and services to needy families with children" for "aid to dependent children", in opening provision.

Subsec. (a)(1). Pub. L. 87-543, §§ 101(a)(2), 108(c), substituted "aid to families with dependent children", in four instances, and "such aid" in subpar. (A)(i) for "aid to dependent children", and added subpar. (A)(iii).

Subsec. (a)(2). Pub. L. 87-543, § 101(a)(2), substituted "aid to families with dependent children" and "such aid" for "aid to dependent children."

Subsec. (a)(3). Pub. L. 87-543, § 101 (a)(2), (b)(2)(A), inserted in the opening provisions "whose State plan approved under section 602 of this title meets the requirements of subsection (c)(1) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help relatives attain and retain capability for self-support or self-care and to maintain and strengthen family life for dependent children, services likely to prevent or reduce dependency, and services appropriate for relatives and dependent children where such relatives request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of the quarterly expenses of administration of State

plans, including staff services of State or local public assistance agencies to help relatives attain self-support or self-care and to maintain and strengthen family life for dependent children.

Subsec. (a)(4). Pub. L. 87-543, § 101(b)(2)(B), added subsec. (a)(4).

Subsec. (a), closing provisions. Pub. L. 87-543, § 108(b), limited to the number of individuals with respect to whom protective payments are made in any month who may be included as recipients of aid to families with dependent children to 5 per centum of the number of other recipients of such aid during the month.

Subsec. (b)(2)(B). Pub. L. 87-543, § 104(a)(3)(C), substituted "aid to families with dependent children" for "aid to dependent children."

Subsec. (c). Pub. L. 87-543, § 101(b)(2)(C), added subsec. (c).

1958—Subsec. (a). Pub. L. 85-840 substituted provisions authorizing the counting of the first $30 of expenditures multiplied by the total number of recipients for provisions which authorized the counting of the first $32 with respect to the first dependent child and the adult relative with whom the child is living and $23 with respect to each of the other dependent children in the home, inserted provisions permitting sums spent for insurance premiums for medical or any other type of remedial care or the cost thereof to be included within the expenditures, excluded Guam from the provisions which allow an average monthly payment of $30 and included Guam within the provisions which authorize an average monthly payment of $18, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 302, substituted "during such quarter as aid to dependent children in the form of money payments under the State plan" for "during such quarter as aid to dependent children under the State plan" in cls. (1) and (2), "with respect to whom aid to dependent children in the form of money payments is paid for such month" for "with respect to whom aid to dependent children is paid for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 312(c), eliminated ", which shall be used exclusively as aid to dependent children," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision), to relatives with whom such children (applying for or receiving such aid) are living, in order to help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children" for "which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 342, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to dependent children," following "the Virgin Islands, an amount" in cls. (1) and (2), substituted "$32" for "$30" in three instances, "$23" for "$21", "$17" for "$15", and "fourteen-seventeenths" for "four-fifths", inserted "and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds $18" in cl. (2), and substituted "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to relatives with whom such children (applying for or receiving such aid) are living, in order the help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children" for "which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 351(a), inserted ", and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds $18" in cl. (2).

1954—Subsec. (b)(1). Act Sept. 1, 1954, § 303(a), substituted the words "the State's proportionate share" for "one-half."

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and to change formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, § 322(a), changed the basis of computation of the Federal portion of aid to dependent children.

1948—Subsec. (a). Act June 14, 1948, inserted $27 for $24 wherever appearing, $18 for $15, and $12 for $9.

1946—Subsec. (a). Act Aug. 10, 1946, § 502(a), increased the maximum monthly State expenditure to which the Federal Government will contribute from $18 for one dependent child and $12 each for other dependent children in the same family to $24 and $15, respectively, and increased the Federal contribution from one-half the State's expenditure for carrying out the State plan to a contribution to be used exclusively as aid to dependent children of two-thirds the State's expenditure up to $9 monthly per child plus one-half the State's expenditure over $9, and a contribution of one-half the State's expenditure for administration.

Subsec. (b). Act Aug. 10, 1946, § 502(b), substituted "the State's proportionate share" for "one-half".

1939—Subsec. (a). Act Aug. 10, 1939, substituted "one-half" for "one-third".

Subsec. (b). Act Aug. 10, 1939, substituted "one half" for "two thirds" in par. (1) and inserted in par. (2) provision reading: "(B) reduced by a sum * * * under the state plan."

Effective Date of 1968 Amendment

Section 205(e) of Pub. L. 90-248 provided that: "The amendments made by subsections (b) and (c) [to subsec. (a)(1)(B) of this section and section 608(a)(4) of this title] shall apply only with respect to foster care provided after December 1967."

Amendments of subsec. (a)(3), (a)(3)(B)—(D) and concluding text, and repeal of subsecs. (a)(4) and (c) of this section by section 201(d), (e) of Pub. L. 90-248 effective July 1, 1968 (or earlier if the State plan so provides) and provision for nonapplication of section 602(a)(15)(F) of this title when there are different State agencies for administration of services, and enactment of subsec. (a)(3)(A) of this section by section 201(c) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, or furnished after such earlier date as the State plan may provide, see section 201(g) of Pub. L. 90-248, set out as a note under section 602 of this title.

Effective Date of 1965 Amendment

Amendment of subsec. (a)(1) of this section by section 401 of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a state plan approved under subchapters I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as a note under section 303 of this title.

Effective Date of 1962 Amendment

Amendment of subsec. (a)(1)—(3) of this section by section 101(a)(2) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a)(4) and (c) and amendment of subsec. (a)(3) of this section by section 101(b)(2)(A)—(C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as a note under section 303 of this title.

Section 202(e) of Pub. L. 87-543, as amended by Pub. L. 90-36, § 2, June 29, 1967, 81 Stat. 94; Pub. L. 90-248, title II, § 207(c), Jan. 2, 1968, 81 Stat. 894, provided that: "The amendments made by sections 105 (other than subsection (c)) and 108 [adding sections 603(a)(1)(A)(iii), 603(a) last par., and 609 of this title, amending section 606(b) of

this title, and enacting provisions set out as notes under sections 603 and 609 of this title] shall be applicable in the case of expenditures under a State plan approved under title IV of the Social Security Act [this subchapter], made during the period beginning October 1, 1962."

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment of this section by Pub. L. 85–840, see section 512 of Pub. L. 85–840, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) of this section by section 342 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 351 (d) of act Aug. 1, 1956, provided that: "The amendments made by this section [to subsec. (a)(2) of this section and sections 606 (b) and 1308 of this title] shall be effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years."

Amendment of this section by section 302 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952, and ending Sept. 30, 1954, see note set out under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 322 (b) of act Aug. 28, 1950, provided that the amendment of subsection (a) shall be effective Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 (d) of act June 14, 1948, provided that the amendment of subsec. (a) of this section by section 3 (b) of act June 14, 1948, shall become effective on Oct. 1, 1948.

EFFECTIVE AND TERMINATION DATE OF 1946 AMENDMENT

Amendment of section by section 502 of act Aug. 10, 1946, effective only for the period beginning Oct. 1, 1946, and ending with the close of June 30, 1950, see paraphrase of section 504 of such act Aug. 10, 1946, as amended by act Aug. 6, 1947, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of subsec. (b) by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 402 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in the Appendix to Title 5.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89–97, set out as a note under section 1396b of this title.

FEDERAL PERCENTAGE OF STATE EXPENDITURES FOR SECTION 602(a)(14), (15) SERVICES FROM JAN. 2, 1968, AND BEFORE JULY 1, 1969

Section 201(h) of Pub. L. 90–248 provided that: "Notwithstanding subparagraph (A) of section 403(a)(3) of the Social Security Act [subsec. (a)(3)(A) of this section] (as amended by subsection (c) of this section), the rate specified in such subparagraph in the case of any State shall be 85 per centum (rather than 75 per centum) with respect to expenditures, for services furnished pursuant to clauses (14) and (15) of section 402(a) of such Act [section 602(a) of this title], made on or after the date of enactment of this Act [Jan. 2, 1968], and prior to July 1, 1969."

RATE OF PAYMENTS FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

Section 248(b) of Pub. L. 90–248 provided that: "Notwithstanding subparagraphs (A) and (B) of section 403(a)(3) of such Act (as amended by this Act) [subsec. (a)(3) of this section], the rate specified in such subparagraphs in the case of Puerto Rico, the Virgin Islands, and Guam shall be 60 per centum (rather than 75 or 85 per centum)."

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Section 108(d) of Pub. L. 87–543 provided that: "The Secretary shall submit to the President, for transmission to the Congress prior to January 1, 1967, a full report of the administration of the provisions of the amendments made by this section [to this section and sections 606 of this title], including the experiences of each of the States in making protective payments under the provisions of their respective State plans which are in accord with such amendments [to this section and section 606 of this title], together with his recommendations as to continuation of and modifications in such amendments [to this section and section 606 of this title]."

Provision applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87–543, set out as Effective Date of 1962 Amendment note under this section.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (b)(2)(B) of this section by section 104(a) of Pub. L. 87–543, see section 104(b) of Pub. L. 87–543, set out as a note under section 601 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 608, 609, 633, 643, 1315, 1317, 1318, 1319, 1396b of this title; title 25 section 639.

§ 604. Stopping payments on deviation from required provisions of plan or failure to comply therewith.

(a) In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 602(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 602(a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(b) No payment to which a State is otherwise entitled under this part for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child. (Aug. 14, 1935, ch. 531, title IV, § 404, 49 Stat. 628; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; May 8, 1961, Pub. L. 87-31, 64, 75 Stat. 77; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(5)(B), 107(b), 76 Stat. 185-189; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 241(b)(4), 245, 81 Stat. 916, 918.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248, § 245, inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

Subsec. (b). Pub. L. 90-248, § 241(b)(4), substituted in two instances "part" for "subchapter".

1962—Subsec. (a). Pub. L. 87-543, § 104(a)(5)(B), substituted "aid and services to needy families with children" for "aid to dependent children."

Subsec. (b). Pub. L. 87-543, § 107(b), prohibited the withholding of payments from a State on and after Sept. 1, 1962 by reason of any action taken pursuant to a State statute where provision is made pursuant to a State statute for adequate care and assistance of the child.

1961—Pub. L. 87-31 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of subsec. (a) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 605, 643, 1316 of this title.

§ 605. Use of payments for benefit of children.

Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefore for protective payments as provided under section 606(b)(2) of this title, or in seeking appointment of a guardian or legal representative as provided in section 1311 of this title, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 604 of this title and shall not prevent such payments with respect to such child from being considered aid to families with dependent children. (Aug. 14, 1935, ch. 531, title IV, § 405, 49 Stat. 629; July 25, 1962, Pub. L. 87-543, title I, § 107(a), 76 Stat. 188.)

AMENDMENTS

1962—Pub. L. 87-543 substituted provisions relating to use of payments for benefit of children for former provision appropriating $250,000 for fiscal year ending June 30, 1936, to defray expenses of former Social Security Board under sections 601—605 of this title.

§ 606. Definitions.

When used in this part—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college,

or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parents and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 602 (a) (7) of this title) which do not meet the preceding requirements of this subsection, but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual, but only with respect to a State whose State plan approved under section 602 of this title includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child, and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(D) aid in the form of foster home care in behalf of children described in section 608(a) of this title; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made;

(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) of this section and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his ,or their) own home.

(d) The term "family services" means services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence.

(e) (1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age of 21 who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a) (1) of this section in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, such child or any other member of the household in which he is living, and

(B) such services as may be specified by the Secretary;

but only with respect to a State whose State plan approved under section 602 of this title includes provision for such assistance.

(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate. (Aug. 14, 1935, ch. 531, title IV, § 406, 49 Stat. 629; Aug. 10, 1939, ch. 666, title IV, § 403, 53 Stat. 1380; Aug. 28, 1950, ch. 809, title III, pt. 2, § 323(a), 64 Stat. 551; Aug. 1, 1956, ch. 836, title III, §§ 321, 322, 351 (b), 70 Stat. 850, 85; July 25, 1962, Pub. L. 87-543, title I, §§ 104 (a) (3) (D), 108(a), 109, 152, 156(b), 76 Stat. 185, 188, 189, 190, 206, 207; Oct. 13, 1964, Pub. L. 88-641, § 2 (a), 78 Stat. 1042; July 30, 1965, Pub. L. 89-97, title IV, § 409, 79 Stat. 422; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 201(f), 206(b), 207(a), 241(b)(5). 81 Stat. 880, 893, 916.)

AMENDMENTS

1968—Pub. L. 90-248, § 241(b)(5), substituted in text preceding subsec. (a) "part" for "subchapter".

Subsec. (b)(2). Pub. L. 90-248, § 207(a)(1), inserted ", and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 602(a)(7) of this title" and "or are made on behalf of such child or relative directly

to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual".

Subsec. (b)(2)(B)—(F). Pub. L. 90–248, § 207(a)(2), struck out cl. (B) requirements that State plan include provision for making payments only when such payments will meet all the need of the individuals with respect to whom the payments are made, and redesignated former cls. (C)—(F) as (B)—(E), respectively.

Subsec. (d). Pub. L. 90–248, § 201(f), added subsec. (d).

Subsec. (e). Pub. L. 90–248, § 206(b), added subsec. (e).

1965—Subsec. (a). Pub. L. 89–97 substituted "(as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university," for "(as determined in accordance with standards prescribed by the Secretary) a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent," in clause (2)(B).

1964—Subsec. (a). Pub. L. 88–641 included within the definition of "dependent child" one who is under the age of 21 and a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

1962—Subsec. (b). Pub. L. 87–543, §§ 104(a)(3)(D), 156(b), substituted "aid to families with dependent children" for "aid to dependent children" and inserted "(if provided in or after the third month before the month in which the receipient makes application for aid)" preceding "medical care".

Pub. L. 87–543, §§ 108(a), 109, 152, designated existing provisions as par. (1) and added par. (2); inserted in par. (1) "(and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title)" following "relative with whom any dependent child is living"; and deleted from par. (1) "for any month" and "if money payments have been made under the State plan with respect to such child for such month" preceding and following "to meet the needs of the relative with whom any dependent child is living".

1956—Subsec. (a). Act Aug. 1, 1956, §§ 321, 322, included first cousins, nephews, and nieces, as persons with whom a needy child may be living, and eliminated the requirement of school attendance for children between the ages of 16 and 18.

Subsec. (b). Act Aug. 1, 1956, § 351(b), eliminated "(except when used in clause (2) of section 603(a) of this title)" preceding "includes money payments or medical care".

1950—Subsec. (b). Act Aug. 28, 1950, redefined "aid to dependent children".

Subsec. (c). Act Aug. 28, 1950, added subsec. (c).

1939—Subsec. (a). Act Aug. 10, 1939, redefined "dependent child".

EFFECTIVE DATE OF 1968 AMENDMENT; DIFFERENT STATE AGENCIES FOR ADMINISTRATION OF SERVICES

Addition of subsec. (d) of this section by section 201(f) of Pub. L. 90–248 effective July 1, 1968 (or earlier if the State plan so provides) and provision for nonapplication of section 602(a)(15)(F) of this title when there are different State agencies for administration of services, see section 201(g)(1) of Pub. L. 90–248, set out as a note under section 602 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(c) of Pub. L. 87–543 provided that: "The amendments made by sections 102 (b)(2) and (d), and 152 [enacting section 728 of this title and amending sections 606(b)(1), 721 and 723(a) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter] or developed as provided in part 3 of title V of such Act [sections 721—728 of this title], as the case may be, made after June 30, 1962."

Amendment of subsec. (b) of this section by section 108(a) of Pub. L. 87–543 applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87–543, set out as a note under section 603 of this title.

Amendment of subsec. (b) of this section by section 109 of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87–543, set out as a note under section 303 of this title.

Amendment of subsec. (b) of this section by section 156(b) of Pub. L. 87–543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87–543, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 323 of part III of title III of act Aug. 1, 1956, provided that: "The amendments made by this part [to subsec. (a) of this section] shall become effective July 1, 1957."

Amendment of subsec. (b) of this section by section 351 (b) of act Aug. 1, 1956, effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years, see section 351 (d) of act Aug. 1, 1956, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 323 (b) of act Aug. 28, 1950, provided that the amendment of subsection (b) and the addition of subsection (c) shall take effect as of Oct. 1, 1950.

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Report of administration of provisions enacted as an amendment of this section by section 108 of Pub. L. 87–543 and relating to protective payments under dependent children program and recommendations as continuation and modification of the provisions, see section 108(d) of Pub. L. 87–543, set out as a note under section 603 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (b) of this section by section 104(a) of Pub. L. 87–543, see section 104(b) of Pub. L. 87–543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 603, 605, 607, 608, 609, 1396a, 1396d of this title.

§ 607. Dependent children of unemployed fathers; definition.

(a) The term "dependent child" shall, notwithstanding section 606(a) of this title, include a needy child who meets the requirements of section 606(a)(2) of this title who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of his father, and who is living with any of the relatives specified in section 606(a)(1) of this title in a place of residence maintained by one or more of such relatives as his (or their) own home.

(b) The provisions of subsection (a) of this section shall be applicable to a State if the State's plan approved under section 602 of this title.

(1) requires the payment of aid to families with dependent children with respect to a dependent child as defined in subsection (a) of this section when—

(A) such child's father has not been employed (as determined in accordance with standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

(B) such father has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

(C) (i) such father has 6 or more quarters of work (as defined in subsection (d) (1) of this section) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) he received unemployment compensation under an unemployment compensation law of a State or of the United States, or he was qualified (within the meaning of subsection (d) (3) of this section) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) of this section will be referred to the Secretary of Labor as provided in section 602(a) (19) of this title within thirty days after receipt of aid with respect to such children;

(B) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained; and

(C) for the denial of aid to families with dependent childen to any child or relative specified in subsection (a) of this section—

(i) if, and for so long as, such child's father is not currently registered with the public employment offices in the State, and

(ii) with respect to any week for which such child's father receives unemployment compensation under an unemployment compensation law of a State or of the United States.

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a) of this section, (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b) (1) of this section, or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subparagraph (A) of subsection (b) (2) of this section), under the program therein specified, to refer such father to the Secretary of Labor pursuant to section 602(a) (19) of this title.

(d) For purposes of this section—

(1) the term "quarter of work" with respect to any individual means a calendar quarter in which such individual received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 413(a) (2) of this title), or in which such individual participated in a community work and training program under sction 609 of this title or any other work and training program subject to the limitations in section 609 of this title, or the work incentive program established under part C;

(2) the term "calendar quarter" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31; and

(3) an individual shall be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

(A) he would have been eligible to receive such unemployment compensation upon filing application, or

(B) he performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application.

(Aug. 14, 1935, ch. 531, title IV, § 407, as added May 8, 1961, Pub. L. 87–31, § 1, 75 Stat. 75, and amended July 25, 1962, Pub. L. 87–543, title I, §§ 104(a) (3) (E), 131(a), 134, 76 Stat. 185, 193, 196; Oct. 13, 1964, Pub. L. 88–641, § 2(b), 78 Stat. 1042; June 29, 1967, Pub. L. 90–36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90–248, title II, § 203(a), 81 Stat. 882; June 28, 1968, Pub. L. 90–364, title III, § 302, 82 Stat. 273.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 203(a), in provisions designated as subsec. (a), redefined definition of "dependent child" to provide for a definition of unemployment of a father under standards prescribed by the Secretary rather than unemployment of a parent as defined by the State.

Subsec. (b). Pub. L. 90–248, § 203(a), in provisions designated as subsec. (b), provided for requirements and contents of State plans, adding introductory text preceding subpar. (A) of par. (1), pars. (1) (A), (2) (A), and (2) (C) (i), and incorporating existing cl. (1) provision for inclusion of aid for any needy child in par. (1), existing cl. (3) (B) in par. (1) (B), existing cl. (3) (A) in par. (2) (B) (substituting "designed to assure maximum utilization" for "looking toward maximum utilization"), existing second sentence in par. (2) (C) (ii), and deleted former cl. (2) (B) respecting assurance of prohibition of aid as long as the unemployed parent refuses without good cause to accept employment offered through public employment offices or by an employer in good faith, now covered in section 602(a) (19) (F) of this title.

Subsec. (b) (2) (C). Pub. L. 90–364 added provisions prohibiting payment to a family on the basis of the father's unemployment with respect to any week for which the father receives unemployment compensation under State or Federal law.

Pub. L. 90–248, § 203(a), provided for application of the provisions to unemployed fathers rather than unemployed parents and eliminated effective period provision beginning May 1, 1961, and ending with the close of June 30, 1968.

Subsecs. (c), (d). Pub. L. 90–248, § 203(a), added subsecs. (c) and (d).

1967—Pub. L. 90–36 extended termination date from June 30, 1967, to June 30, 1968.

1964—Pub. L. 88–641 substituted "needy child who meets the requirements of section 606(a) (2) of this title, who" for "needy child under the age of eighteen who" and "section 606(a) (1) of this title" for "section 606(a) of this title."

1962—Pub. L. 87–543 extended termination date from June 30, 1962, to June 30, 1967, substituted "aid to families with dependent children" for "aid to dependent

children" in clause (2)(B), designated existing provisions as clause (3)(A), and added clause (3)(B).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 203(c) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to this section] shall be effective January 1, 1968; except that no State which had in operation a program of aid with respect to children of unemployed parents under section 407 of the Social Security Act [this section] (as in effect prior to such amendment) in the calendar quarter commencing October 1, 1967, shall be required to include any additional child or family under its State plan approved under section 402 of such Act [section 602 of this title], by reason of the enactment of such amendment, prior to July 1, 1969."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of par. (3) of this section by section 134 of Pub. L. 87–543 effective July 1, 1963, see section 202(a) of Pub. L. 87–543, set out as a note under section 302 of this title.

FATHER AS MEETING CERTAIN SUBSEC. (b)(1)(C) REQUIREMENTS OF MINIMUM QUARTERS OF WORK AND RECEIPT OF OR QUALIFICATION FOR UNEMPLOYMENT COMPENSATION

Section 203(b) of Pub. L. 90–248 provided that: "In the case of an application for aid to families with dependent children under a State plan approved under section 402 of such Act [section 602 of this title] with respect to a dependent child as defined in section 407(a) of such Act [subsec. (a) of this section] (as amended by this section) within 6 months after the effective date of the modification of such State plan which provides for payments in accordance with section 407 of such Act [this section] as so amended, the father of such child shall be deemed to meet the requirements of subparagraph (C) of section 407(b)(1) of such Act [subsec. (b)(1) of this section] (as so amended) if at any time after April 1961 and prior to the date of application such father met the requirements of such subparagraph (C). For purposes of the preceding sentence, an individual receiving aid to families with dependent children (under section 407 of the Social Security Act [this section] as in effect before the enactment of this Act) for the last month ending before the effective date of the modification referred to in such sentence shall be deemed to have filed application for such aid under such section 407 [this section] (as amended by this section) on the day after such effective date."

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of clause (2)(B) of this section 104(a) of Pub. L. 87–543, see section 104(b) of Pub. L. 87–543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 606, 608 of this title.

§ 608. Payments to States for foster home care of dependent children; definitions.

Effective for the period beginning May 1, 1961—

(a) the term "dependent child" shall, notwithstanding section 606(a) of this title, also include a child (1) who would meet the requirements of such section 606(a) or of section 607 of this title except for his removal after April 30, 1961, from the home of a relative (specified in such section 606(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 602 of this title, or (B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f)(1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 602 of this title, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who (A) received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated, or (B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) in the case of a child who had been living with a relative specified in section 606(a) of this title within 6 months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefore.

(b) the term "aid to families with dependent children" shall, notwithstanding section 606(b) of this title, include also foster care in behalf of a child described in paragraph (a) of this section—

(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of foster care in the foster family home of an individual.

(c) the number of individuals counted under clause (A) of section 603(a)(1) of this title for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care; and

(d) services described in paragraph (f)(2) of this section shall be considered as part of the administration of the State plan for purposes of section 603(a)(3) of this title;

but only with respect to a State whose State plan approved under section 602 of this title—

(e) includes aid for any child described in paragraph (a) of this section, and

(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 606(a) of this title, and (2) use by the State or local

agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare agency referred to in section 722(a) of this title (relating to allotments to States for child welfare services under sections 721 to 726 of this title) or of any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

For purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and the term "child-care institution" means a nonprofit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing. (Aug. 14, 1935, ch. 531, title IV, § 408, as added May 8, 1961, Pub. L. 87–31, § 2, 75 Stat. 76, and amended July 25, 1962, Pub. L. 87–543, title I, §§ 101(b)(2)(D), 104(a)(3) (F), (G), 131(b), 135 (a)–(d), 155(a), 76 Stat. 180, 185, 193, 196, 197, 207; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 201(e)(4), 205(c), 81 Stat. 880, 892.)

REFERENCES IN TEXT

Sections 721 to 728 of this title, referred to in subsec. (f), were repealed by Pub. L. 90–248, title II, § 240(e)(1), Jan. 2, 1968, 81 Stat. 915. For distribution in the Code of the provisions formerly comprising these sections, see note set out under section 715 of this title.

AMENDMENTS

1968—Subsec. (a)(4)(A), (B). Pub. L. 90–248, § 205(c) designated existing provisions as (A) and added (B).

Subsec. (d). Pub. L. 90–248, § 201(e)(4), struck out the reference to section 603(a)(4) of this title in the introductory text.

1962—Pub. L. 87–543, § 131(b), deleted from the introductory phrase ", and ending with the close of June 30, 1962" following "May 1, 1963."

Par. (a)(2). Pub. L. 87–543, § 155(a), incorporated existing provisions in (A) and added (B).

Par. (a)(3). Pub. L. 87–543, § 135(a), inserted "or child-care institution" following "foster family home."

Par. (b). Pub. L. 87–543, §§ 104(a)(3)(F), 135(b), substituted "aid to families with dependent children" for "aid to dependent children" in provisions designated clause (1), and designated existing provisions as clause (1), added to such clause (1) "whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or" and added clause (2).

Par. (c). Pub. L. 87–543, § 104(a)(3)(G), substituted "aid to families with dependent children" for "aid to dependent children."

Par. (d). Pub. L. 87–543, § 101(b)(2)(D), inserted "and (4)" following "section 603(a)(3)."

Par. (f) (1), (2). Pub. L. 87–543, § 135(c), inserted "or child-care institution" following "foster family home."

Pub. L. 87–543, § 135(d), inserted provisions in last sentence defining "child-care institution."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(4) by section 205(c) of Pub. L. 90–248 applicable only with respect to foster care provided after December 1967, see section 205(e) of Pub. L. 90–248, set out as a note under section 603 of this title.

Amendment of subsec. (d) of this section by section 201(e) of Pub. L. 90–248 effective July 1, 1968 (or earlier if the State plan so provides), see section 201(g)(1) of Pub. L. 90–248, set out as a note under section 602 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 135(e) of Pub. L. 87–543, as amended by Pub. L. 88–641, § 1, Oct. 13, 1964, 78 Stat. 1042; Pub. L. 90–36, § 2, June 29, 1967, 81 Stat. 94; Pub. L. 90–248, title II, § 205(d), Jan. 2, 1968, 81 Stat. 893, provided that: "The amendments made by the preceding provisions of this section [to this section] shall be effective only in the case of expenditures under a State plan approved under title IV of the Social Security Act [this subchapter] made during the period beginning October 1, 1962."

Amendment of par. (d) of this section by section 101(b)(2)(D) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87–543, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT: REPORT TO PRESIDENT AND CONGRESS; RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Section 155(b) of Pub. L. 87–543, as amended by Pub. L. 88–48, June 29, 1963, 77 Stat. 70; Pub. L. 88–345, June 30, 1964, 78 Stat. 235; Pub. L. 90–36, § 2, June 29, 1967, 81 Stat. 94; Pub. L. 90–248, title II, § 205(d), Jan. 2, 1968, 81 Stat. 893, provided that: "The amendment made by subsection (a) [to par. (a)(2) of this section] shall apply only for the period beginning October 1, 1962. The Secretary shall submit to the President, for transmission to the Congress prior to December 31, 1963, a full report of the administration of the provisions of the amendment made by subsection (a) [to par. (a)(2) of this section], including the experiences of each of the States in arranging for foster care under the provisions of their respective State plans which are in accord with such amendment, together with his recommendations as to continuation of, and modifications in, such amendment."

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89–97, title I, July 30, 1965, 79 Stat. 352, set out at a note under section 1396b of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS.

State plans in effect July 25, 1962, deemed to have been conformed to amendment of pars. (b), (c) of this section by section 104(a) of Pub. L. 87–543, see section 104(b) of Pub. L. 87–543, set out as a note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 606, 1396b of this title.

§ 609. Community work and training programs.

(a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 606(a) of this title, with whom he is living) under a State plan approved under section 602 of this title shall not be excluded from aid to families

with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type of work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal;

(2) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there will be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work; and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 601 of this title.

(b) In the case of any State which makes expenditures in the form described in subsection (a) of this section under its State plan approved under section 602 of this title, the proper and efficient administration of the State plan for purposes of section 603(a) (3) and (4) of this title, may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) of this section or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary. (Aug. 14, 1935, ch. 531, title IV, § 409, as added July 25, 1962, Pub. L. 87–543, title I, § 105(a), 76 Stat. 186, and amended July 25, 1962, Pub. L. 87–543, title I, § 101(b)(2)(E), 76 Stat. 180.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–543 inserted "and (4)" following "section 603(a)(3)."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (b) of this section by section 101(b)(2)(E) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87–543, set out as a note under section 303 of this title.

EFFECTIVE DATE

Section applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87–543, set out as a note under section 603 of this title.

PROVISIONS INAPPLICABLE TO ANY STATE WITH RESPECT TO ANY QUARTER BEGINNING AFTER JUNE 30, 1968

Section 204(c)(2) of Pub. L. 90–248, title II, Jan. 2, 1968, 81 Stat. 892, provided that: "The provisions of section 409 of the Social Security Act [this section] shall not apply to any State with respect to any quarter beginning after June 30, 1968."

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF PROGRAMS

Section 105(b) of Pub. L. 87–543 provided that: "The Secretary shall submit to the President, for transmission to the Congress prior to January 1, 1967, a full report of the administration of the provisions of the amendment made by subsection (a) [enacting this section], including the experiences of each of the States in paying for work under community work and training programs under the provisions of their respective State plans which are in accord with such amendment, together with his

recommendations as to continuation of and modifications in such amendment."

Provision applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as Effective Date of 1962 Amendment note under section 603 of this title.

EXPENDITURES DEEMED MADE UNDER STATE PLANS AND CONSTITUTING AID TO DEPENDENT CHILDREN OR AID TO FAMILIES WITH DEPENDENT CHILDREN

Section 105(c) of Pub. L. 87-543 provided that: "Expenditures (other than for medical or any other type of remedial care) made at any time during the period beginning July 1, 1961, and ending with the close of September 30, 1962, which would have been considered aid to dependent children or aid to families with dependent children, as the case may be, under a State plan approved under title IV of the Social Security Act [this subchapter] except that they were made in the form of payments for work performed by a relative with whom a dependent child (as defined in section 406 or 407 of such Act [section 606 or 607 of this title]) is living, shall be deemed to have been made under a State plan approved under title IV of the Social Security Act [this subchapter] and to constitute aid to dependent children or aid to families with dependent children, as the case may be, if (1) such expenditures were made under conditions which meet the requirements set forth in section 409 of such Act (added by subsection (a) of this section) [this section], other than subparagraphs (D) and (F) of subsection (a)(1) thereof [subpars. (D) and (F) of subsec. (a)(1) of this section] and other than the requirement that the State agency (administering or supervising the administration of such plan) be administering or supervising the administration of the program under which such work is performed, and (2) at the time such expenditures were made, such State plan met the requirements of paragraphs (1), (2), and (3) of section 407 of the Social Security Act [section 607 of this title]. The costs of administration of any such State plan may include, with respect to expenditures described in the preceding sentence, only such costs as are permitted in accordance with the provisions of subsection (b) of such section 409. [subsec. (b) of this section]."

§ 610. Assistance by Internal Revenue Service in locating parents; appropriations; transfer of moneys.

(a) Upon receiving a report from a State agency made pursuant to section 602(a)(21) of this title, the Secretary shall furnish to the Secretary of the Treasury or his delegate the names and social security account numbers of the parents contained in such report, and the name of the State agency which submitted such report. The Secretary of the Treasury or his delegate shall endeavor to ascertain the address of each such parent from the master files of the Internal Revenue Service, and shall furnish any address so ascertained to the State agency which submitted such report.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a) of this section. The Secretary shall transfer to the Secretary of the Treasury from time to time sufficient amounts out of the monies appropriated pursuant to this subsection to enable him to perform his functions under subsection (a) of this section. (Aug. 14, 1935, ch. 531, title IV, § 410, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 211(b), 81 Stat. 897.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

PART B.—CHILD-WELFARE SERVICES

AMENDMENTS

1968—Pub. L. 90-248, title II, § 240(c), Jan. 2, 1968, 81 Stat. 911, added part B heading.

§ 620. Appropriations.

For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are hereby authorized to be appropriated: $55,000,000 for the fiscal year ending June 30, 1968, $100,000,000 for the fiscal year ending June 30, 1969, and $110,000,000 for each fiscal year thereafter. (Aug. 14, 1953, ch. 531, title IV, § 420, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 911.)

EFFECTIVE DATE

Section 240(e)(2) of Pub. L. 90-248 provided that: "Part B of title IV of the Social Security Act (as added by subsection (c) of this section) [this part], and the amendments made by subsections (a) and (b) of this section [amending subchapter IV and enacting Part A heading] shall become effective on the date this Act is enacted [Jan. 2, 1968]."

STATE PLANS; DATE OF DEVELOPMENT; APPROPRIATIONS, ALLOTMENTS, AND REALLOTMENTS

Section 240(f)(1), (2) of Pub. L. 90-248 provided that: "In the case of any State which has a plan developed as provided in part 3 of title V of the Social Security Act [part 3 of this subchapter] as in effect prior to the enactment of this Act [Jan. 2, 1968]—

"(1) such plan shall be treated as a plan developed, as provided in part B of title IV of such Act [this part], on the date this Act is enacted [Jan. 2, 1968];

"(2) any sums appropriated, alloted, or reallotted pursuant to part 3 of title V [former sections 721-728 of this title]; for the fiscal year ending June 30, 1968, shall be deemed appropriated, allotted, or realloted (as the case may be) under part B of title IV of such Act [this part] for such fiscal year;"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 621 of this title.

§ 621. Allotments to States.

The sum appropriated pursuant to section 620 of this title for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall allot $70,000 to each State, and shall allot to each State an amount which bears the same ratio to the remainder of the sum so appropriated for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 623 of this title) bears to the sum of the corresponding products of all the States. (Aug. 14, 1935, ch. 531, title IV, § 421, as added Jan. 2, 1968, Pub. L. 90-248, title II, § 240(c), 81 Stat. 912.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1308 of this title.

§ 622. Payment to States; computation of amounts.

(a) From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State—

(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

(A) provides that (i) the State agency designated pursuant to section 602(a)(3) of this title to administer or supervise the administration of the plan of the State approved under part A of this subchapter will administer or supervise the administration of such plan for child-welfare services and (ii) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, the organizational unit in such State or local agency established pursuant to section 602(a)(15) of this title will be responsible for furnishing such child-welfare services,

(B) provides for coordination between the services provided under such plan and the services provided for dependent children under the State plan approved under part A of this subchapter, with a view to provision of welfare and related services which will best promote the welfare of such children and their families, and

(C) provides with respect to day care services (including the provision of such care) provided under this subchapter—

(i) for cooperative arrangements with the State Health authority and the State agency primarily responsible for State supervision of public schools to assure maximum utilization of such agencies in the provision of necessary health services and education for children receiving day care.

(ii) for any advisory committee, to advise the State public welfare agency on the general policy involved in the provision of day care services under the plan, which shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit agencies, organizations, or groups concerned with the provision of day care,

(iii) for such safeguards as may be necessary to assure provision of day care under the plan only in cases in which it is in the best interest of the child and the mother and only in cases in which it is determined, under criteria established by the State, that a need for such care exists; and, in cases in which the family is able to pay part or all of the costs of such care, for payment of such fees as may be reasonable in the light of such ability.

(iv) for giving priority, in determining the existence of need for such day care, to members of low-income or other groups in the population, and to geographical areas, which have the greatest relative need for extension of such day care, and

(v) that day care provided under the plan will be provided only in facilities (including private homes) which are licensed by the State, or approved (as meeting the standards established for such licensing) by the State agency responsible for licensing facilities of this type, and

(vi) for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of the health and development of the child, and

(2) that makes a satisfactory showing that the State is extending the provision of child-welfare services in the State, with priority being given to communities with the greatest need for such services after giving consideration to their relative financial need, and with a view to making available by July 1, 1975, in all political subdivisions of the State, for all children in need thereof, child-welfare services provided by the staff (which shall to the extent feasible be composed of trained child-welfare personnel) of the State public welfare agency or of the local agency participating in the administration of the plan in the political subdivision,

except that (effective July 1, 1969, or, if earlier, on the date as of which the modification of the State plan to comply with this requirement with respect to subprofessional staff is approved) such plan shall provide for the training and effective use of paid subprofessional staff with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency, an amount equal to the Federal share (as determined under section 623 of this title) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organization, in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child. In developing such services for children, the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the State and local communities as may be authorized by the State.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a) of this section.

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount

which should have been paid to the State for such prior period under this section.

(Aug. 14, 1935, ch. 531, title IV, § 422, as added and amended Jan. 2, 1968, Pub. L. 90–248, title II, § 240 (c), (d), 81 Stat. 912, 915.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–248, § 240(d), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

EFFECTIVE DATE OF 1968 AMENDMENT; DIFFERENT STATE AGENCIES FOR ADMINISTRATION OF STATE PLANS UNDER PARTS A AND B

Section 240(e)(3) of Pub. L. 90–248 provided that: "The amendments made by paragraphs (1) and (2) of subsection (d) [enacting subsec. (a)(1)(A) and redesignating former subpars. (A) and (B) as (B) and (C)] shall become effective July 1, 1969, except that (A) if on the date of enactment of this Act [Jan. 2, 1968] the agency of a State administering its plan for child-welfare services developed under part B of title IV of the Social Security Act [this part] is different from the agency of the State designated pursuant to section 402(a)(3) of such Act [section 602(a)(3) of this title], so much of paragraph (1) of section 422(a) of such Act [subsec. (a) of this section] as precedes subparagraph (B) (as added by paragraph (2) of such subsection (d)) shall not apply with respect to such agencies but only so long as such agencies of the State are different, and (B) if on such date the local agency administering the plan of a State for child-welfare services developed under part B of title IV of the Social Security Act [this part] is different from the local agency in such subdivision administering the plan of such State under part A of title IV of such Act [part A of this subchapter], so much of such paragraph (1) as precedes such subparagraph (B) shall not apply with respect to such local agencies but only so long as such local agencies are different."

OVERPAYMENTS OR UNDERPAYMENTS

Section 240(f)(3) of Pub. L. 90–248 provided that in the case of any State which has a plan developed as provided in part 3 of this subchapter as in effect prior to Jan. 2, 1968 (former sections 721—728 of this title) "any overpayment or underpayment which the Secretary determines was made to the State under section 523 of the Social Security Act [former section 723 of this title] and with respect to which adjustment has not then already been made under subsection (b) of such section shall, for purposes of section 422 of such Act [this section], be considered an overpayment or underpayment (as the case may be) made under section 422 of such Act [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1317 of this title.

§ 623. Allotment percentage and Federal share.

(a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Island, and Guam.

(b) The "Federal share" for any State for any fiscal year shall be 100 per centum less than percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33⅓ per centum or more than 66⅔ per centum, and (2) the Federal share shall be 66⅔ per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(c) The Federal share and the allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 724(c) of this title in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia. (Aug. 14, 1935, ch. 531, title IV, § 423, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 240(c), 81 Stat. 913.)

REFERENCES IN TEXT

Section 724(c) of this title, referred to in subsec. (c), was repealed by Pub. L. 90–248, title II, § 241(e)(1), Jan. 2, 1968, 81 Stat. 915.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 621, 622 of this title.

§ 624. Reallotment of allotments to States.

The amount of any allotment to a State under section 621 of this title for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 621 of this title. (Aug. 14, 1936, ch. 531, title IV, § 424, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 240(c), 81 Stat. 914.)

§ 625. "Child-welfare services" defined.

For purposes of this subchapter, the term "child-welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of chil-

dren away from their homes in foster family homes or day-care or other child-care facilities. (Aug. 14, 1935, ch. 531, title IV, § 425, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 240(c), 81 Stat. 914.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

§ 626. Research, training, or demonstration projects.

(a) Authorization of appropriations.

There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

(1) for grants by the Secretary—

(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeship with such stipends and allowances as may be permitted by the Secretary; and

(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

(b) Payments; advances or reimbursements; installments; conditions.

Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements. (Aug. 14, 1935, ch. 531, title IV, § 426, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 240(c), 81 Stat. 915.)

APPROPRIATIONS OR GRANTS

Section 240(g) of Pub. L. 90–248 provided that: "Any sums appropriated or grants made pursuant to section 526 of the Social Security Act (as in effect prior to the enactment of this Act) [former section 726 of this title] shall be deemed to have been appropriated or made (as the case may be) under section 426 of the Social Security Act (as added by subsection (c) of this section) [this section]."

PART C.—WORK INCENTIVE PROGRAM FOR RECIPIENTS OF AID UNDER STATE PLAN APPROVED UNDER PART A

AMENDMENTS

1968—Pub. L. 90–248, title II, § 204(a), Jan. 2, 1968, 81 Stat. 884, added part C heading.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 607, 699 of this title.

§ 630. Statement of purpose.

The purpose of this part is to require the establishment of a program utilizing all available manpower services, including those authorized under other provisions of law, under which individuals receiving aid to families with dependent children will be furnished incentives, opportunities, and necessary services in order for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in special work projects, thus restoring the families of such individuals to independence and useful roles in their communities. It is expected that the individuals participating in the program established under this part will acquire a sense of dignity, self-worth, and confidence which will flow from being recognized as a wage-earning member of society and that the example of a working adult in these families will have beneficial effects on the children in such families. (Aug. 14, 1935, ch. 531, title IV, § 430, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 884.)

§ 631. Appropriations; transfer of moneys.

There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare for each fiscal year a sum sufficient to carry out the purposes of this part. The Secretary of Health, Education, and Welfare shall transfer to the Secretary of Labor from time to time sufficient amounts, out of the moneys appropriated pursuant to this section, to enable him to carry out such purposes. (Aug. 14, 1935, ch. 531, title IV, § 431, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 884.)

§ 632. Establishment of programs.

(a) The Secretary of Labor (hereinafter in this part referred to as the Secretary) shall, in accordance with the provisions of this part, establish work incentive programs (as provided for in subsection (b) of this section) in each State and in each political subdivision of a State in which he determines there is a significant number of individuals who have attained age 16 and are receiving aid to families with dependent children. In other political subdivisions, he shall use his best efforts to provide such programs either within such subdivisions or through the provision of transportation for such persons to political subdivisions of the State in which such programs are established.

(b) Such programs shall include, but shall not be limited to, (1) a program placing as many individuals as is possible in employment, and utilizing on-the-job training positions for others, (2) a program of institutional and work experience training for those individuals for whom such training is likely to lead to regular employment, and (3) a program of special work projects for individuals for whom a job in the regular economy cannot be found.

(c) In carrying out the purposes of this part the Secretary may make grants to, or enter into agreements with, public or private agencies or organizations (including Indian tribes with respect to Indians

on a reservation), except that no such grant or agreement shall be made to or with a private employer for profit or with a private nonprofit employer not organized for a public purpose for purposes of the work experience program established by clause (2) of subsection (b) of this section.

(d) Using funds appropriated under this part, the Secretary, in order to carry out the purposes of this part, shall utilize his authority under the Manpower Development and Training Act of 1962, the Act of June 6, 1933, as amended (48 Stat. 113), and other Acts, to the extent such authority is not inconsistent with this chapter.

(e) The Secretary shall take appropriate steps to assure that the present level of manpower services available under the authority of other statutes to recipients of aid to families with dependent children is not reduced as a result of programs under this part. (Aug. 14, 1935, ch. 531, title IV, § 432, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 884.)

REFERENCES IN TEXT

Manpower Development and Training Act of 1962, referred to in subsec. (d), is classified to chapter 30 of this title.

Act of June 6, 1933, as amended (48 Stat. 113), referred to in subsec. (d), is classified to section 49 et seq. of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 633, 634, 635, 636, 642 of this title.

§ 633. Operation of program.

(a) The Secretary shall provide a program of testing and counseling for all persons referred to him by a State, pursuant to section 602 of this title, and shall select those persons whom he finds suitable for the programs established by clauses (1) and (2) of section 632(b) of this title. Those not so selected shall be deemed suitable for the program established by clause (3) of such section 632(b) of this title unless the Secretary finds that there is good cause for an individual not to participate in such program.

(b) The Secretary shall develop an employability plan for each suitable person referred to him under section 602 of this title which shall describe the education, training, work experience, and orientation which it is determined that each such person needs to complete in order to enable him to become self-supporting.

(c) The Secretary shall make maximum use of services available from other Federal and State agencies and, to the extent not otherwise available on a nonreimbursable basis, he may reimburse such agencies for services rendered to persons under this part.

(d) To the extent practicable and where necessary, work incentive programs established by this part shall include, in addition to the regular counseling, testing, and referral available through the Federal-State Employment Service System, program orientation, basic education, training in communications and employability skills, work experience, institutional training, on-the-job training, job development, and special job placement and followup services, required to assist participants in securing and retaining employment and securing possibilities for advancement.

(e) (1) In order to develop special work projects under the program established by section 632(b)(3) of this title, the Secretary shall enter into agreements with (A) public agencies, (B) private nonprofit organizations established to serve a public purpose, and (C) Indian tribes with respect to Indians on a reservation, under which individuals deemed suitable for participation in such a program will be provided work which serves a useful public purpose and which would not otherwise be performed by regular employees.

(2) Such agreements shall provide—

(A) for the payment of the Secretary to each employer a portion of the wages to be paid by the employer to the individuals for the work performed;

(B) the hourly wage rate and the number of hours per week individuals will be scheduled to work on special work projects of such employer;

(C) that the Secretary will have such access to the premises of the employer as he finds necessary to determine whether such employer is carrying out his obligations under the agreement and this part; and

(D) that the Secretary may terminate any agreement under this subsection at any time.

(3) The Secretary shall establish one or more accounts in each State with respect to the special work projects established and maintained pursuant to this subsection and place into such accounts the amounts paid to him by the State agency pursuant to section 602(a)(19)(E) of this title. The amounts in such accounts shall be available for the payments specified in subparagraph (A) of paragraph (2). At the end of each fiscal year and for such period of time as he may establish, the Secretary shall determine how much of the amounts paid to him by the State agency pursuant to section 602(a)(19)(E) of this title were not expended as provided by the preceding sentence of this paragraph and shall return such unexpected amounts to the State, which amounts shall be regarded as overpayments for purposes of section 603(b)(2) of this title.

(4) No wage rates provided under any agreement entered into under the subsection shall be lower than the applicable minimum wage for the particular work concerned.

(f) Before entering into a project under any of the programs established by this part, the Secretary shall have reasonable assurances that—

(1) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(2) such project will not result in the displacement of employed workers,

(3) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

(4) appropriate workmen's compensation protection is provided to all participants.

(g) Where an individual, referred to the Secretary of Labor pursuant to section 602(a)(19)(A)(i) and (ii) of this title refuses without good cause to accept

employment or participate in a project under a program established by this part, the Secretary of Labor shall (after providing opportunity for fair hearing) notify the State agency which referred such individual and submit such other information as he may have with respect to such refusal.

(h) With respect to individuals who are participants in special work projects under the program established by section 632 (b)(3) of this title, the Secretary shall periodically (but at least once every six months) review the employment record of each such individual while on such special work project and on the basis of such record and such other information as he may acquire determine whether it would be feasible to place such individual in regular employment or on any of the projects under the programs established by section 632(b)(1) and (2) of this title. (Aug. 14, 1935, ch. 531, title IV, § 433, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 885.)

PAYMENT OF WAGES FOR WORK FOR PUBLIC AGENCIES; TRANSFER INTO CERTAIN ACCOUNTS

Section 204(d) of Pub. L. 90–248 provided that: "During the fiscal year ending June 30, 1969, the Secretary of Labor may, notwithstanding the provisions of section 433(e)(2)(A) of the Social Security Act [subsec. (e)(2)(A) of this section], pay all of the wages to be paid by the employer to the individuals for work performed for public agencies (including Indian tribes with respect to Indians on a reservation) under special work projects established under the program established by section 432(b)(3) of such Act [section 632(b)(3) of this title] and may transfer into accounts established pursuant to section 433(e)(3) of such Act [subsec. (e)(3) of this section] such amounts as he finds necessary in addition to amounts paid into such accounts pursuant to section 402(a)(19)(E) of such Act [section 602(a)(19)(E) of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 642, 644 of this title.

§ 634. Incentive payments.

The Secretary is authorized to pay to any participant under a program established by section 632 (b)(2) of this title an incentive payment of not more than $30 per month, payable in such amounts and at such times as the Secretary prescribes. (Aug. 14, 1935, ch. 531, title IV, § 434, as added Jan. 2. 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 887.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 602 of this title.

§ 635. Federal assistance.

(a) Federal assistance under this part shall not exceed 80 per centum of the costs of carrying out this part. Non-Federal contributions may be cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services.

(b) Costs of carrying out this part include costs of training, supervision, materials, administration, incentive payments, transportation, and other items as are authorized by the Secretary, but may not include any reimbursement for time spent by participants in work, training, or other participation in the program; except that with respect to special work projects under the program established by section 632(b)(3) of this title, the costs of carrying out this part shall include only the costs of administration. (Aug. 14, 1935, ch. 531, title IV, § 435, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 887.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 641, 643 of this title.

§ 636. Period of enrollment.

(a) The program established by section 632(b)(2) of this title shall be designed by the Secretary so that the average period of enrollment under all projects under such program throughout any area of the United States will not exceed one year.

(b) Services provided under this part may continue to be provided to an individual for such period as the Secretary determines (in accordance with regulations prescribed by the Secretary after consultation with the Secretary of Health, Education, and Welfare) is necessary to qualify him fully for employment even though his earnings disqualify him from aid under a State plan approved under section 602 of this title. (Aug. 14, 1935, ch. 531, title IV, § 436, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 887.)

§ 637. Relocation of participants.

The Secretary may assist participants to relocate their place of residence when he determines such relocation is necessary in order to enable them to become permanently employable and self-supporting. Such assistance shall be given only to participants who concur in their relocation and who will be employed at their place of relocation at wage rates which will meet at least their full need as determined by the State to which they will be relocated. Assistance under this section shall not exceed the reasonable costs of transportation for participants, their dependents, and their household belongings plus such relocation allowance as the Secretary determines to be reasonable. (Aug. 14, 1935, ch. 531, title IV, § 437, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 887.)

§ 638. Participants not Federal employees.

Participants in projects under programs established by this part shall be deemed not to be Federal employees and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits. (Aug. 14, 1935, ch. 531, title IV, § 438, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 887.)

§ 639. Rules and regulations.

The Secretary may issue such rules and regulations as he finds necessary to carry out the purposes of this part: *Provided,* That in developing policies for programs established by this part the Secretary shall consult with the Secretary of Health, Education, and Welfare. (Aug. 14, 1935, ch. 531, title IV, § 439, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 888.)

§ 640. Annual report.

The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the work incentive programs established by this part. (Aug. 14, 1935, ch. 531, title

IV, § 440, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 888.)

§ 641. Evaluation and research.

The Secretary shall (jointly with the Secretary of Health, Education, and Welfare) provide for the continuing evaluation of the work incentive programs established by this part, including their effectiveness in achieving stated goals and their impact on other related programs. He also may conduct research regarding ways to increase the effectiveness of such programs. He may, for this purpose, contract for independent evaluations of and research regarding such programs or individual projects under such programs. For purposes of sections 635 and 643 of this title, the costs of carrying out this section shall not be regarded as costs of carrying out work incentive programs established by this part. (Aug. 14, 1935, ch. 531, title IV, § 441, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 888.)

§ 642. Review of special work projects by a State panel.

(a) The Secretary shall make an agreement with any State which is able and willing to do so under which the Governor of the State will create one or more panels to review applications tentatively approved by the Secretary for the special work projects in such State to be established by the Secretary under the program established by section 632(b)(3) of this title.

(b) Each such panel shall consist of not more than five and not less than three members, appointed by the Governor. The members shall include one representative of employers and one representative of employees; the remainder shall be representatives of the general public. No special work project under such program developed by the Secretary pursuant to an agreement under section 633(e)(1) of this title shall, in any State which has an agreement under this section, be established or maintained under such program unless such project has first been approved by a panel created pursuant to this section. (Aug. 14, 1935, ch. 531, title IV, § 442, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 888.)

§ 643. Collection of State share.

If a non-Federal contribution of 20 per centum of the costs of the work incentive programs established by this part is not made in any State (as specified in section 602(a) of this title), the Secretary of Health, Education, and Welfare may withhold any action under section 604 of this title because of the State's failure to comply substantially with a provision required by section 602 of this title. If the Secretary of Health, Education, and Welfare does withhold such action, he shall, after reasonable notice and opportunity for hearing to the appropriate State agency or agencies, withhold any payments to be made to the State under sections 303(a), 603(a), 1203(a), 1353(a), 1383(a), and 1396b(a) of this title until the amount so withheld (including any amounts contributed by the State pursuant to the requirement in section 602(a)(19)(C) of this title) equals 20 per centum of the costs of such work incentive programs. Such withholding shall remain in effect until such time as the Secretary has assurances from the State that such 20 per centum will be contributed as required by section 602 of this title. Amounts so withheld shall be deemed to have been paid to the State under such sections and shall be paid by the Secretary of Health, Education, and Welfare to the Secretary. Such payment shall be considered a non-Federal contribution for purposes of section 635 of this title. (Aug. 14, 1935, ch. 531, title IV, § 443, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 888.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 641 of this title.

§ 644. Agreements with other agencies providing assistance to families of unemployed parents.

(a) The Secretary is authorized to enter into an agreement (in accordance with the succeeding provisions of this section) with any qualified State agency (as described in subsection (b) of this section) under which the program established by the preceding sections of this part C will (except as otherwise provided in this section) be applicable to individuals referred by such State agency in the same manner, to the same extent, and under the same conditions as such program is applicable with respect to individuals referred to the Secretary by a State agency administering or supervising the administration of a State plan approved by the Secretary of Health, Education, and Welfare under part A of this subchapter.

(b) A qualified State agency referred to in subsection (a) of this section is a State agency which is charged with the administration of a program—

(1) the purpose of which is to provide aid or assistance to the families of unemployed parents,

(2) which is not established pursuant to part A of subchapter IV of this chapter,

(3) which is financed entirely from funds appropriated by the Congress, and

(4) none of the financing of which is made available under any program established pursuant to title V of the Economic Opportunity Act.

(c) (1) Any agreement under this section with a qualified State agency shall provide that such agency will, with respect to all individuals receiving aid or assistance under the program of aid or assistance to families of unemployed parents administered by such agency, comply with the requirements imposed by section 602(a)(15) and section 602(a)(19)(F) of this title in the same manner and to the same extent as if (A) such qualified agency were the agency in such State administering or supervising the administration of a State plan approved under part A of this subchapter, and (B) individuals receiving aid or assistance under the program administered by such qualified agency were recipients of aid under a State plan which is so approved.

(2) Any agreement entered into under this section shall remain in effect for such period as may be specified in the agreement by the Secretary and the qualified State agency, except that, whenever the Secretary determines, after reasonable notice and opportunity for hearing to the qualified State agency, that such agency has failed substantially to comply with its obligations under such agreement, the Secretary may suspend operation of the

agreement until such time as he is satisfied that the State agency will no longer fail substantially to comply with its obligations under such agreement.

(3) Any such agreement shall further provide that the agreement will be inoperative for any calendar quarter if, for the preceding calendar quarter, the maximum amount of benefits payable under the program of aid or assistance to families of unemployed parents administered by the qualified State agency which is a party to such agreement is lower than the maximum amount of benefits payable under such program for the quarter which ended September 30, 1967.

(d) The Secretary shall, at the request of any qualified State agency referred to in subsection (a) of this section and upon receipt from it of a list of the names of individuals referred to the Secretary, furnish to such agency the names of each individual on such list participating in a special work project under section 633(a)(3) of this title whom the Secretary determines should continue to participate in such project. The Secretary shall not comply with any such request with respect to an individual on such list unless such individual has been referred to the Secretary by such agency under such section 602(a)(15) of this title for a period of at least six months. (Aug. 14, 1935, ch. 531, title IV, § 444, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 204(a), 81 Stat. 889.)

REFERENCE IN TEXT

Title V of the Economic Opportunity Act, referred to in subsec. (b)(4), is classified to section 2921 et seq. of this title.

SUBCHAPTER V.—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

CODIFICATION

This subchapter as added by Pub. L. 90–248, title III, § 301, Jan. 2, 1968, 81 Stat. 921, constitutes a general amendment of the provisions of a prior subchapter, as enacted Aug. 14, 1935, ch. 531, title V, 49 Stat. 629, and amended thereafter.

Such prior subchapter provided for maternal and child health and crippled children's services. Provisions of such prior subchapter related to the following subject matter:

Sections 701—705, maternal and child health services;
Sections 711—716, services for crippled children;
Sections 721—728, child-welfare services;
Sections 729, 729–1, 729a, maternity and infant care projects, projects for health of school and preschool children, and research projects; and
Section 731, administration.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1301, 1395b–1 of this title.

§ 701. Appropriation.

For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State,

(1) services for reducing infant mortality and otherwise promoting the health of mothers and children; and

(2) services for locating, and for medical, surgical, corrective, and other services and care for and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling,

there are authorized to be appropriated $250,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $300,000,000 for the fiscal year ending June 30, 1971, $325,000,000 for the fiscal year ending June 30, 1972, and $350,000,000 for the fiscal year ending June 30, 1973, and each fiscal year thereafter. (Aug. 14, 1935, ch. 531, title V, § 501, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 921.)

CODIFICATION

A prior section 701, Acts Aug. 14, 1935, ch. 531, title V, § 501, 49 Stat. 629; Aug. 10, 1939, ch. 666, title V, § 501, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(1), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(a), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85–840, title VI, § 602(a), 72 Stat. 1054; Sept. 13, 1960, Pub. L. 86–778, title VII, § 707(a)(1)(A), 74 Stat. 995; Oct. 24, 1963, Pub. L. 88–156, § 2(a), 77 Stat. 273; July 30, 1965, Pub. L. 89–97, title II, § 201(a), 79 Stat. 353, authorized appropriations, for maternal and child health services, of $25,000,000; $30,000,000; $35,000,000; $45,000,000; $50,000,000; $55,000,000; $55,000,000; and $60,000,000 for fiscal years ending June 30, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970 and each fiscal year thereafter, respectively.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 511 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 631, as amended (formerly classified to section 711 of this title, and sections 531(a), 532(a), and 533(a) [formerly 532(a)] of act Aug. 14, 1935, ch. 531, title V, as added Oct. 24, 1963, Pub. L. 88–156, § 4, 77 Stat. 274; July 30, 1965, Pub. L. 89–97, title II, § 205(3), 79 Stat. 354; Oct. 24, 1963, Pub. L. 88–156, § 4, 77 Stat. 274, renumbered July 30, 1965, Pub. L. 89–97, title II, § 205(2), 79 Stat. 354 (formerly classified to sections 729(a), 729–1(a), and 729a(a) of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

EFFECTIVE DATE

Section 301 of Pub. L. 90–248 provided in part that this subchapter (as otherwise amended by Pub. L. 90–248) shall be effective with respect to fiscal years beginning after June 30, 1968.

SHORT TITLE

Section 306 of Pub. L. 90–248 provided that: "This title [which enacted this subchapter, amended sections 705(a)(3), [former] 729(a), 1396a(a)(4), and 1396d(a)(4) of this title, enacted provisions set out as notes under this section and section 705 of this title, and amended provisions set out as a note under section 242b of this title] may be cited as the 'Child Health Act of 1967'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 704, 705, 713 of this title and in title 26 section 883.

§ 702. Purposes for which funds are available.

Appropriations pursuant to section 701 of this title shall be available for the following purposes in the following proportions:

(1) In the case of the fiscal year ending June 30, 1969, and each of the next 3 fiscal years, (A) 50 percent of the appropriation for such year shall be for allotments pursuant to sections 703 and 704 of this title; (B) 40 percent thereof shall be for grants pursuant to sections 708, 709, and 710 of this title; and (C) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 711 and 712 of this title.

(2) In the case of the fiscal year ending June 30, 1973, and each fiscal year thereafter, (A) 90 percent of the appropriation for such years shall be for allotments pursuant to sections 703 and 704 of

this title; and (B) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 711 and 712 of this title.

Not to exceed 5 percent of the appropriation for any fiscal year under this section shall be transferred, at the request of the Secretary, from one of the purposes specified in paragraph (1) or (2) to another purpose or purposes so specified. For each fiscal year, the Secretary shall determine the portion of the appropriation, within the percentage determined above to be available for sections 703 and 704 of this title, which shall be available for allotment pursuant to section 703 of this title and the portion thereof which shall be available for allotment pursuant to section 704 of this title. Notwithstanding the preceding provisions of this section, of the amount appropriated for any fiscal year pursuant to section 701 of this title, not less than 6 percent of the amount appropriated shall be available for family planning services from allotments under section 703 of this title and for family planning services under projects under sections 708 and 712 of this title. (Aug. 14, 1935, ch. 531, title V, § 502, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 921.)

CODIFICATION

A prior section 702, act Aug. 14, 1935, ch. 531, title V, § 502, 49 Stat. 629; Aug. 10, 1939, ch. 666, title V, § 502, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; acts Aug. 10, 1946, ch. 951, title IV, § 401(b) (2, 3), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(b), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85–840, title VI, § 602(b), (c), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86–778, title VII, § 707(a)(1)(B), (C), (b)(1)(A), 74 Stat. 995, 996; Oct. 24, 1963, Pub. L. 88–156, § 2(b), (c), 77 Stat. 273, provided for allotment to States for maternal and child health services, and is now covered by section 703 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 705, 708, 709, 710, 711, 712, 1308 of this title.

§ 703. Allotments to States for maternal and child health services.

The amount determined to be available pursuant to section 702 of this title for allotments under this section shall be allotted for payments for maternal and child health services as follows:

(1) One-half of such amount shall be allotted by allotting to each State $70,000 plus such part of the remainder of such one-half as he finds that the number of live births in such State bore to the total number of live births in the United States in the latest calendar year for which he has statistics.

(2) The remaining one-half of such amount shall (in addition to the allotments under paragraph (1)) be allotted to the States from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of live births in such State, except that not more than 25 percent of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 705 of this title), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to the advancement of maternal and child health.

(Aug. 14, 1935, ch. 531, title V, § 503, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 922.)

CODIFICATION

A prior section 703, acts Aug. 14, 1935, ch. 531, title V, § 503, 49 Stat. 630; Aug. 10, 1939, ch. 666, title V, § 503, 53 Stat. 1380; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; acts Aug. 28, 1950, ch. 809 title III, pt. 6, § 361(e), 64 Stat. 558; July 30, 1965, Pub. L. 89–97, title II, § 204(a) 79 Stat. 354, related to contents of State plans for maternal and child health services and their approval by the Administrator, and is now covered by section 705 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 502 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 629, as amended (formerly classified to section 702 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

SPECIAL PROJECTS FOR MENTALLY RETARDED CHILDREN

Pub. L. 91–667, title II, § 200, Jan. 11, 1971, 84 Stat. 2006, provided in part: "That $4,750,000 of the amount available under section 503(2) of such Act [par. 2 of this section] shall be used only for special projects for mentally retarded children, and $5,000,000 of the amount available under section 504(2) of such Act [section 704(2) of this title] shall be used only for special projects for services for crippled children who are mentally retarded."

Similar provisions were contained in the following prior Appropriation Acts:

1970—Pub. L. 91–204, title II, § 200, Mar. 5, 1970, 84 Stat. 39.

1968—Pub. L. 90–557, title II, § 200, Oct. 11, 1968, 82 Stat. 987.

1967—Pub. L. 90–132, title II, § 200, Nov. 8, 1967, 81 Stat. 403.

1966—Pub. L. 89–787, title II, § 200, Nov. 7, 1966, 80 Stat. 1396.

1965—Pub. L. 89–156, title II, § 200, Aug. 31, 1965, 79 Stat. 605.

1964—Pub. L. 88–605, Sept. 19, 1964, title II, § 200, 78 Stat. 976.

1963—Pub. L. 88–136, Oct. 11, 1963, title II, § 200, 77 Stat. 240.

1962—Pub. L. 87–582, Aug. 14, 1962, title II, § 200, 76 Stat. 376.

1961—Pub. L. 87–290, Sept. 22, 1961, title II, § 201, 75 Stat. 606.

1960—Pub. L. 86–703, Sept. 2, 1960, title II, § 201, 74 Stat. 770.

1959—Pub. L. 86–158, Aug. 14, 1959, title II, § 201, 73 Stat. 353.

1958—Pub. L. 85–580, Aug. 1, 1958, title II, § 201, 72 Stat. 472.

1957—Pub. L. 85–67, June 29, 1957, title II, § 201, 71 Stat. 222.

1956—June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 704a, 706, 1308 of this title.

§ 703a. State plans; obstetrical services; approval by Secretary.

CODIFICATION

Section, Pub. L. 90–132, title II, § 200, Nov. 8, 1967, 81 Stat. 404, which provided for approval by the Secretary of any State plan which provided standards for professional obstetrical services in accordance with the laws of the State, was not repeated in the Department of Health, Education, and Welfare Appropriation Act, 1969.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1966—Nov. 7, 1966, Pub. L. 87–787, title II, § 200, 80 Stat. 1397.

1965—Aug. 31, 1965, Pub. L. 89–156, title II, § 200, 79 Stat. 605.
1964—Sept. 19, 1964, Pub. L. 88–605, title II, § 200, 78 Stat. 976.
1963—Oct. 11, 1963, Pub. L. 88–136, title II, § 200, 77 Stat. 240.
1962—Aug. 14, 1962, Pub. L. 87–582, title II, § 200, 76 Stat. 376.
1961—Sept. 22, 1961, Pub. L. 87–290, title II, § 201, 75 Stat. 605.
1960—Sept. 2, 1960, Pub. L. 86–703, title II, § 201, 74 Stat. 770.
1959—Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 353.
1958—Aug. 1, 1958, Pub. L. 85–580, title II, § 201, 72 Stat 472.
1957—June 29, 1957, Pub. L. 85–67, title II, § 201, 71 Stat. 222.
1956—June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.
1955—Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 408.
1954—July 2, 1954, ch. 457, title II, § 201, 68 Stat. 444.
1953—July 31, 1953, ch. 296, title II, § 201, 67 Stat. 255.
1952—July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.
1951—Aug. 31, 1951, ch. 373, title II, § 201, 65 Stat. 219.
1950—Sept. 6, 1950, ch. 896, ch. V, title II, § 201, 64 Stat. 653.
1949—June 29, 1949, ch. 275, title II, § 201, 63 Stat. 284.
1948—June 16, 1948, ch. 472, title I, § 101, 62 Stat. 447.
1947—July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273.
1946—July 26, 1946, title I, § 101, 60 Stat. 681.
1945—July 3, 1945, ch. 263, title I, § 101, 59 Stat. 363.

§ 704. Allotments to States for crippled children's services.

The amount determined to be available pursuant to section 702 of this title for allotments under this section shall be allotted for payments for crippled children's services as follows:

(1) One-half of such amount shall be allotted by allotting to each State $70,000 and allotting the remainder of such one-half according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in paragraph (2) of section 701 of this title and the cost of furnishing such services to them.

(2) The remaining one-half of such amount shall (in addition to the allotments under paragraph (1) be allotted to the States from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of crippled children in each State in need of the services referred to in paragraph (2) of section 701 of this title and the cost of furnishing such services to them; except that not more than 25 percent of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 705 of this title), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to the advancement of services for crippled children.

(Aug. 14. 1935, ch. 531, title V, § 504, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 922.)

Codification

A prior section 704, act Aug. 14, 1935, ch. 531, title V, § 504 49 Stat. 630; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, Pub. L. 86–778 title VII, § 707(b)(1)(B), 74 Stat. 996; July 30, 1965, Pub. L. 89–97, title II, § 201(b), 79 Stat. 353, provided for payment to States with an approved plan for maternal and child-health services, computation of amounts, and prescribed general availability of services by July 1, 1975, as requisite for payments for any period after June 30, 1966, and is now covered by section 706 of this title.

Prior Provisions

Provisions similar to those comprising this section were contained in section 512 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 631, as amended (formerly classified to section 712 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

Section Referred to in Other Sections

This section is referred to in sections 702, 704a, 706, 1308 of this title.

§ 704a. Allotments excluded from computation.

Any allotment to a State pursuant to section 703 (2) or 704(2) of this title shall not be included in computing for the purposes of subsections (a) and (b) of section 706 of this title an amount expended or estimated to be expended by the State. (Pub. L. 91–667, title II, § 200, Jan. 11, 1971, 84 Stat. 2006.)

Codification

Section is from the Department of Health, Education, and Welfare Appropriation Act, 1971, and is not a part of the Social Security Act which comprises this chapter.

Similar Provisions

Similar provisions were contained in the following prior appropriation acts:

1970—Mar. 5, 1970, Pub. L. 91–204, title II, § 200, 84 Stat. 39.
1968—Oct. 11, 1968, Pub. L. 90–557, title II, § 200, 82 Stat. 987.
1967—Nov. 8, 1967, Pub. L. 90–132, title II, § 200, 81 Stat. 403.
1966—Nov. 7, 1966, Pub. L. 89–787, title II, § 200, 80 Stat. 1396.
1965—Aug. 31, 1965, Pub. L. 89–156, title II, § 200, 79 Stat. 605.
1964—Sept. 10, 1964, Pub. L. 88–605, title II, § 200, 78 Stat. 975.
1963—Oct. 11, 1963, Pub. L. 88–136, title II, § 200, 77 Stat. 240.
1962—Aug. 14, 1962, Pub. L. 87–582, title II, § 200, 76 Stat. 376.
1961—Sept. 22, 1961, Pub. L. 87–290, title II, § 201, 75 Stat. 605.
1960—Sept. 2, 1960, Pub. L. 86–703, title II, § 201, 74 Stat. 770.
1959—Aug. 14, 1959, Pub. L. 86–158, title II, § 201, 73 Stat. 353.
1958—Aug. 1, 1958, Pub. L. 85–580, title II, § 201, 72 Stat. 472.
1957—June 29, 1957, Pub. L. 85–67, title II, § 201, 71 Stat. 222.
1956—June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.
1955—Aug. 1, 1955, ch. 437, title II, § 201, 69. Stat. 409.
1954—July 2, 1954, ch. 457, title II, § 201, 68 Stat. 444.
1953—July 31, 1953, ch. 296, title II, § 201, 67 Stat. 255.
1952—July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.
1951—Aug. 31, 1951, ch. 373, title II, § 201, 65 Stat. 219.
1950—Sept. 6, ch. 896, ch. V, title II, § 201, 64 Stat. 653.
1949—June 29, 1949, ch. 275, title II, § 201, 63 Stat. 284.
1948—June 16, 1948, ch. 472, title I, § 101, 62 Stat. 447.
1947—July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273.
1946—July 26, 1946, ch. 672, title I, § 101, 60 Stat. 681.
1945—July 3, 1945, ch. 263, title I, 59 Stat. 364.
1944—June 28, 1944, ch. 302, title I, 58 Stat. 550.
1943—July 12, 1943, ch. 221, title I, § 1, 57 Stat. 497.
1942—July 2, 1942, ch. 475, title I, 56 Stat. 565.
1941—July 1, 1941, ch. 269, title I, 55 Stat. 469.
1940—June 26, 1940, ch. 428, title I, 54 Stat. 578.
1939—June 29, 1939, ch. 249, § 1, 53 Stat. 924.
Aug. 9, 1939, ch. 633, title I, § 1, 53 Stat. 1320.

1938—Apr. 27, 1938, ch. 180, title IV, § 1, 52 Stat. 288.
1937—June 16, 1937, ch. 359, § 1, title IV, 50 Stat. 301
1936—May 15, 1936, ch. 405, § 1, 49 Stat. 1350.

§ 704b. Nonavailability of allotments after close of fiscal year.

No allotment for this or any succeeding fiscal year under this subchapter shall be available after the close of such fiscal year except as may be necessary to liquidate obligations incurred during such year. (July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.)

CODIFICATION

Section is from the Federal Security Agency Appropriation Act, 1953, and is not a part of the Social Security Act which comprises this chapter.

§ 705. State plans; contents; approval by Secretary.

(a) In order to be entitled to payments from allotments under section 702 of this title, a State must have a State plan for maternal and child health services and services for crippled children which—

(1) provides for financial participation by the State;

(2) provides for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; except that in the case of those States which on July 1, 1967, provided for administration (or supervision thereof) of the State plan approved under section 713 of this title (as in effect on such date) by a State agency other than the State health agency, the plan of such State may be approved under this section if it would meet the requirements of this subsection except for provision of administration (or supervision thereof) by such other agency for the portion of the plan relating to services for crippled children, and, in each such case, the portion of such plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter;

(3) provides (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan and (B) provides for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aids, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

(4) provides that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(5) provides for cooperation with medical, health, nursing, educational, and welfare groups and organizations and, with respect to the portion of the plan relating to services for crippled children, with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children;

(6) provides for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary and included in the plan) of inpatient hospital services provided under the plan;

(7) provides, with respect to the portion of the plan relating to services for crippled children, for early identification of children in need of health care and services, and for health care and treatment needed to correct or ameliorate defects or chronic conditions discovered thereby, through provision of such periodic screening and diagnostic services, and such treatment, care and other measures to correct or ameliorate defects or chronic conditions, as may be provided in regulations of the Secretary;

(8) effective July 1, 1972, provides a program (carried out directly or through grants or contracts) of projects described in section 708 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily helping to reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with child bearing and of satisfactorily helping to reduce infant and maternal mortality;

(9) effective July 1, 1972, provides a program (carried out directly or through grants or contracts) of projects described in section 709 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the health of children and youth of school or preschool age;

(10) effective July 1, 1972, provides a program (carried out directly or through grants or contracts) of projects described in section 710 of this title which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the dental health of children and youth of school or preschool age;

(11) provides for carrying out the purposes specified in section 701 of this title;

(12) provides for the development of demonstration services (with special attention to dental care for children and family planning services for mothers) in needy areas and among groups in special need,

(13) provides that, where payment is authorized under the plan for services which an optometrist is licensed to perform, the individual for whom such payment is authorized may, to the extent practicable, obtain such services from an optometrist licensed to perform such services except where such services are rendered in a clinic, or another appropriate institution, which does not have an arrangement with optometrists so licensed; and

(14) provides that acceptance of family planning services provided under the plan shall be voluntary on the part of the individual to whom

such services are offered and shall not be a prerequisite to eligibility for or the receipt of any service under the plan.

(b) The Secretary shall approve any plan which meets the requirements of subsection (a) of this section. (Aug. 14, 1935, ch. 531, title V, § 505, as added and amended Jan. 2, 1968, Pub. L. 90–248, title III, §§ 301, 304(a), 81 Stat. 923, 929.)

CODIFICATION

A prior section 705, act Aug. 14, 1935, ch. 531, title V, § 505, 49 Stat. 631; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e) 64 Stat. 558, provided for stopping payment on failure to comply with plan for maternal and child health services, and is now covered by section 707 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in sections 503 and 513 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 630, 632, as amended (formerly classified to sections 703 and 713 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

AMENDMENTS

1968—Subsec. (a)(3). Pub. L. 90–248, § 304(a), designated existing provisions as subpar. (A) and added subpar. (B).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 304(b) of Pub. L. 90–248 provided that: "The amendment made by this section [amending this section] shall become effective July 1, 1969, or, if earlier (with respect to a State) on the date as of which the modification of the State plan to comply with such amendment is approved."

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(3)(A) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 707, 709 of this title.

§ 706. Payments to States; computation of amounts.

(a) From the sums appropriated therefor and the allotments available under section 703(1) or 704(1) of this title, as the case may be, the Secretary shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing July 1, 1968, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan with respect to maternal and child health services and services for crippled children, respectively.

(b) (1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c) The Secretary shall also from time to time make payments to the States from their respective allotments pursuant to section 703(2) or 704(2) of this title. Payments of grants under sections 703(2), 704(2), 708, 709, 710, and 711 of this title, and of grants, contracts, or other arrangements under section 712 of this title, may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the section involved.

(d) The total amount determined under subsections (a) and (b) of this section and the first sentence of subsection (c) of this section for any fiscal year ending after June 30, 1968, shall be reduced by the amount by which the sum expended (as determined by the Secretary) from non-Federal sources for maternal and child health services and services for crippled children for such year is less than the sum expended from such sources for such services for the fical year ending June 30, 1968. In the case of any such reduction, the Secretary shall determine the portion thereof which shall be applied, and the manner of applying such reduction, to the amounts otherwise payable from allotments under section 703 or section 704 of this title.

(e) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder from the allotments under section 703 or section 704 of this title for any period after June 30, 1968, unless the State makes a satisfactory showing that it is extending the provision of services, including services for dental care for children and family planning for mothers, to which such State's plan applies in the State with a view to making such services available by July 1, 1975, to children and mothers in all parts of the State. (Aug. 14, 1935, ch. 531, title V, § 506, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 924.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in sections 504 and 514 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 630, 632, as amended (formerly classified to sections 704 and 714 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 704a of this title.

§ 707. Operation of State plans.

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 705 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affect by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title V, § 507, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 925.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in sections 505 and 515 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 631, 633, as amended (formerly classified to sections 705 and 715 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

§ 708. Special project grants for maternity and infant care.

(a) In order to help reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with childbearing and to help reduce infant and maternal mortality, the Secretary is authorized to make, from the sums available under clause (B) of paragraph (1) of section 702 of this title, grants to the State health agency of any State and, with the consent of such agency, to the health agency of any political subdivision of the State, and to any other public or nonprofit private agency, institution, or organization, to pay not to exceed 75 percent of the cost (exclusive of general agency overhead) of any project for the provision of—

(1) necessary health care to prospective mothers (including, after childbirth, health care to mothers and their infants) who have or are likely to have conditions associated with childbearing or are in circumstances which increase the hazards to the health of the mothers or their infants (including those which may cause physical or mental defects in the infants), or

(2) necessary health care to infants during their first year of life who have any condition or are in circumstances which increase the hazards to their health, or

(3) family planning services,

but only if the State or local agency determines that the recipient will not otherwise receive such necessary health care or services because he is from a low-income family or for other reasons beyond his control. Acceptance of family planning services provided under a project under this section (and section 712 of this title) shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to the eligibility for or the receipt of any service under such project.

(b) No grant may be made under this section for any project for any period after June 30, 1972. (Aug. 14, 1935, ch. 531, title V, § 508, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 926.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 531 of act Aug. 14, 1935, ch. 531, title V, as added Oct. 24, 1963, Pub. L. 88–156, § 4, 77 Stat. 274 (formerly classified to section 729 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 705, 706 of this title.

§ 709. Special project grants for health of school and preschool children.

(a) In order to promote the health of children and youth of school or preschool age, particularly in areas with concentrations of low-income families, the Secretary is authorized to make, from the sums available under clause (B) of paragraph (1) of section 702 of this title, grants to the State health agency of any State and (with the consent of such agency) to the health agency of any political subdivision of the State, to the State agency of the State administering or supervising the administration of the State plan approved under section 705 of this title, to any school of medicine (with appropriate participation by a school of dentistry), and to any teaching hospital affiliated with such a school, to pay not to exceed 75 percent of the cost of projects of a comprehensive nature for health care and services for children and youth of school age or for preschool children (to help them prepare to start school). No project shall be eligible for a grant under this section unless it provides (1) for the coordination of health care and services provided under it with, and utilization (to the extent feasible) of, other State or local health, welfare, and education programs for such children, (2) for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary) of inpatient hospital services provided under the project, and (3) that any treatment, correction of defects, or aftercare provided under the project is available only to children who would not otherwise receive it because they are from low-income families or for other reasons beyond their control; and no such project for children and youth of school age shall be considered to be of a comprehensive nature for purposes of this section unless it includes (subject to the limitation in the preceding provisions of this sentence) at least such screening, diagnosis, preventive services, treatment, correction of defects, and aftercare, both medical and dental, as may be provided for in regulations of the Secretary.

(b) No grant may be made under this section for any project for any period after June 30, 1972. (Aug. 14, 1935, ch. 531, title V, § 509, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 926.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 532 of act Aug. 14, 1935, ch. 531, title V, as added July 30, 1965, Pub. L. 89–97, title II, § 205(3), 79 Stat. 354 (formerly classified to section 729–1 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

REPORT TO CONGRESS; EVALUATION OF PROGRAM

Section 206 of Pub. L. 89–67, title II, July 30, 1965, 79 Stat. 354 authorized the Secretary to submit to the Presi-

dent for transmission to the Congress before July 1, 1969, a full report of the administration of the provisions of former section 729–1 of this title, now covered by sections 701 and 702(1)(B) of this title and this section, together with an evaluation of the program established thereby and his recommendations as to continuation of and modifications in that program.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 705, 706 of this title.

§ 710. Special project grants for dental health of children.

(a) In order to promote the dental health of children and youth of school or preschool age, particularly in areas with concentrations of low-income families, the Secretary is authorized to make grants, from the sums available under clause (B) of paragraph (1) of section 702 of this title, to the State health agency of any State and (with the consent of such agency) to the health agency of any political subdivision of the State, and to any other public or nonprofit private agency, institution, or organization, to pay not to exceed 75 percent of the cost of projects of a comprehensive nature for dental care and services for children and youth of school age or for preschool children. No project shall be eligible for a grant under this section unless it provides that any treatment, correction of defects, or aftercare provided under the project is available only to children who would not otherwise receive it because they are from low-income families or for other reasons beyond their control, and unless it includes (subject to the limitation of the foregoing provisions of this sentence) at least such preventive services, treatment, correction of defects, and after care, for such age groups, as may be provided in regulations of the Secretary. Such projects may also include research looking toward the development of new methods of diagnosis or treatment, or demonstration of the utilization of dental personnel with various levels of training.

(b) No grant may be made under this section for any project for any period after June 30, 1972. (Aug. 14, 1935, ch. 531, title V, § 510, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 927.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 705, 706 of this title.

§ 711. Training of personnel.

From the sums available under clause (C) of paragraph (1) or clause (B) of paragraph (2) of section 702 of this title, the Secretary is authorized to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children, particularly mentally retarded children and children with multiple handicaps. In making such grants, the Secretary shall give special attention to programs providing training at the undergraduate level. (Aug. 14, 1935, ch. 531, title V, § 511, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 927.)

CODIFICATION

A prior section 711, acts Aug. 14, 1935, ch. 531, title V, § 511, 49 Stat. 631; Aug. 10, 1939, ch. 666, title V, § 504, 53 Stat. 1380; 1946 Reorg Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(4), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(c), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85–840, title VI, § 603(a), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86–778, title VII, § 707(a)(2)(A), 74 Stat. 995; Oct. 24, 1963, Pub. L. 88–156, § 3(a), 77 Stat. 273; July 30, 1965, Pub. L. 89–97, title II, § 202(a), 79 Stat. 353, authorized appropriations, for services for crippled children, of $25,000,000; $30,000,000; $35,000,000; $45,000,000; $50,000,000; $55,000,000; and $60,000,000, for fiscal years ending June 30, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970 and thereafter respectively, and is now covered by section 701 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 516 of act Aug. 14, 1935, ch. 531, title V, as added July 30, 1965, Pub. L. 89–97, title II, § 203(a), 79 Stat. 353 (formerly classified to section 716 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 706 of this title.

§ 712. Research projects relating to maternal and child health services and crippled children's services.

From the sums available under clause (C) of paragraph (1) or clause (B) of paragraph (2) of section 702 of this title, the Secretary is authorized to make grants to or jointly financed cooperative arrangements with public or other nonprofit institutions of higher learning, and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or crippled children's programs, and contracts with public or nonprofit private agencies and organizations engaged in research or in such programs, for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof. Effective with respect to grants made and arrangements entered into after June 30, 1968, (1) special emphasis shall be accorded to projects which will help in studying the need for, and the feasibility, costs, and effectiveness of, comprehensive health care programs in which maximum use is made of health personnel with varying levels of training, and in studying methods of training for such programs, and (2) grants under this section may also include funds for the training of health personnel for work in such projects. (Aug. 14, 1935, ch. 531, title V, § 512, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 927.)

CODIFICATION

A prior section 712, act Aug. 14, 1935, ch. 531, title V, § 512, 49 Stat. 631; Aug. 10, 1939, ch. 666, title V, § 505, 53 Stat. 1380; 1946 Reorg. Plan. No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b) (5, 6), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(d), pt. 6, § 361(e), 64 Stat. 552, 558; Aug. 28, 1958, Pub. L. 85–840, title VI, § 603(b), (c), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86–778, title VII, § 707 (a)(2)(B), (C), (b)(2)(A), 74 Stat. 996; Oct. 24, 1963, Pub. L. 88–156, § 3 (b), (c), 77 Stat. 274, provided for allotment to States for services for crippled children, and is now covered by section 704 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 533, formerly section 532, of act Aug. 14, 1935, ch. 531, title V, as added Oct. 24, 1963, Pub. L. 88–156, § 4, 77 Stat 274, and renumbered July 30, 1965, Pub. L. 89–97, title II, § 205(2), 79 Stat. 354 (formerly classified to section 729a of this title), prior to the general

amendement and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 702, 706, 708, 1308 of this title.

§ 713. Administration.

(a) The Secretary of Health, Education, and Welfare shall make such studies and investigations as will promote the efficient administration of this subchapter.

(b) Such portion of the appropriations for grants under section 701 of this title as the Secretary may determine, but not exceeding one-half of 1 percent thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the programs for which such appropriations are made and, in the case of allotments from any such appropriation, the amount available for allotments shall be reduced accordingly.

(c) Any agency, institution, or organization shall, if and to the extent prescribed by the Secretary, as a condition to receipt of grants under this subchapter, cooperate with the State agency administering or supervising the administration of the State plan approved under subchapter XIX of this chapter in the provision of care and services, available under a plan or project under this subchapter, for children eligible therefor under such plan approved under subchapter XIX of this chapter. (Aug. 14, 1935, ch. 531, title V, § 513, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 928.)

CODIFICATION

A prior section 713. acts Aug. 14, 1935, ch. 531, title V, § 513, 49 Stat. 632; Aug. 10, 1939, ch. 666, title V, § 506, 53 Stat. 1381; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; July 30, 1965, Pub. L. 89–97, title II, § 204(b), 79 Stat. 354, related to contents of State plans for services for crippled children and their approval by the Administrator, and is now covered by section 705 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 541 of act Aug. 14, 1935, ch. 531, title V, 49 Stat. 634, as amended (formerly classified to section 731 of this title), prior to the general amendment and renumbering of title V of act Aug. 14, 1935, by Pub. L. 90–248, § 301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 705 of this title.

§ 714. "Crippled child" defined.

For purposes of this subchapter, a crippled child is an individual under the age of 21 who has an organic disease, defect, or condition which may hinder the achievement of normal growth and development. (Aug. 14, 1935, ch. 531, title V, § 514, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 928.)

CODIFICATION

A prior section 714, act Aug. 14, 1935, ch. 531, title V, § 514, 49 Stat. 632; Aug. 10, 1939, ch. 666, title V, § 507 (a), (b), 53 Stat. 1381; 1940 Reorg. Plan No. III, § 1(a) (1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, Pub. L. 86–778, title VII, § 707(b)(2)(B), 74 Stat. 996; July 30, 1965, Pub. L. 89–97, title II, §§ 202(b), 203(b), 79 Stat. 353, 354, provided for payment to States with an approved plan for services for crippled children, computation of amounts, and prescribed general availability of services by July 1, 1975, as requisite for payments for any period after June 30, 1966, and is now covered by section 706 of this title.

§ 715. Observance of religious beliefs.

Nothing in this subchapter shall be construed to require any State which has any plan or program approved under, or receiving financial support under, this subchapter to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan or program for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds. (Aug. 14, 1935, ch. 531, title V, § 515, as added Jan. 2, 1968, Pub. L. 90–248, title III, § 301, 81 Stat. 928.)

CODIFICATION

A prior section 715, act Aug. 14, 1935, ch. 531, title V, § 515, 49 Stat. 633; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; act Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558, provided for stopping payment on failure to comply with State plan for services for crippled children, and is now covered by section 707 of this title.

§ 716. Training of professional personnel; appropriation.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title V, § 516, as added July 30, 1965, Pub. L. 89–97, title II, § 203(a), 79 Stat. 353, authorized appropriations for training of professional personnel for health and related care of crippled and mentally retarded children of $5,000,000, $10,000,000, and $17,500,000 for fiscal years ending June 30, 1967, 1968, 1969, and thereafter, respectively, and was omitted in the general amendment of this subchapter by Pub. L. 90–248, Title III, § 301, Jan. 2, 1968, 81 Stat. 921. See, now, sections 702 (1)(C), (2)(B), and 711 of this title.

§§ 721 to 728. Repealed. Pub. L. 90–248, title II, § 240 (e)(1), Jan. 2, 1968, 81 Stat. 915.

Sections were amended or enacted and provided for subject matter at described hereunder.

Section 721, acts Aug. 14, 1935, ch. 531, title V, § 521, 49 Stat. 633; Aug. 10, 1939, ch. 666, title V, § 507(c), 53 Stat. 1381; 1940 Reorg. Plan No. III, § 1(a) (1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan. No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(7), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(e), pt. 6, § 361(e), 64 Stat. 552, 558; Aug. 1, 1956, ch. 836, title IV, § 402, 70 Stat. 856; Aug. 28, 1958, Pub. L. 85–840, title VI, § 601, 72 Stat. 1052; Sept. 13, 1960, Pub. L. 86–778, title VII, § 707 (a)(3)(A), 74 Stat. 996; July 25, 1962, Pub. L. 87–543, title I, § 102(a), (d) (1), 76 Stat. 182, 184; July 30, 1965, Pub. L. 89–97, title II, § 207, 79 Stat. 355, authorized appropriations for child-welfare services and is now covered by section 620 of this title.

Section 722, act Aug. 14, 1935, ch. 531, title V, § 522, as added Aug. 28, 1958, Pub. L. 85–840, title VI, § 601, 72 Stat. 1053, and amended Sept. 13, 1960, Pub. L. 86–778, title VII, § 707(a)(3)(B), 74 Stat. 996; July 25, 1962, Pub. L. 87–543, title I, § 102(c)(1), 76 Stat. 183; July 30, 1965, Pub. L. 89–97, title II, § 208(b), 79 Stat. 355, provided for allotments to States and is now covered by section 621 of this title.

Section 723, act Aug. 14, 1935, ch. 531, title V, § 523, as added Aug. 28, 1958, Pub. L. 85–840, title VI, § 601, 72 Stat. 1053, and amended July 25, 1962, Pub. L. 87–543, title I, § 102(b), 76 Stat. 182; July 30, 1965, Pub. L. 89–97, title II, § 208(c), 79 Stat. 356, provided for payment to States and computation of amounts and is now covered by section 622 of this title.

Section 724, act Aug. 14, 1935, ch. 531, title V, § 524, as added Aug. 28, 1958, Pub. L. 85–840, title VI, § 601, 72 Stat. 1054, and amended June 25, 1959, Pub. L. 86–70, § 32(b), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 30(b), 74 Stat. 420, provided for allotment percentage and Federal share and is now covered by section 623 of this title.

Section 725, act Aug. 14, 1935, ch. 531, title V, § 525, as added Aug. 28, 1958, Pub. L. 85–840, title VI, § 601, 72 Stat. 1054, provided for reallotment of allotments to States and is now covered by section 624 of this title.

Section 726, act Aug. 14, 1935, ch. 531, title V, § 526, as added Sept. 13, 1960, Pub. L. 86–778, title VII, § 707 (b)(3), 74 Stat. 997, and amended July 25, 1962, Pub. L. 87–543, title I, § 123(d), 76 Stat. 193, provided for research, training, or demonstration projects and is now covered by section 626 of this title.

Section 727, act Aug. 14, 1935, ch. 531, title V, § 527, as added July 25, 1962, Pub. L. 87–543, title I, § 102(c)(2), 76 Stat. 183, provided for allotments and reallotment of allotments to States for day care services. Section had been previously repealed by Pub. L. 89–97, title II, § 208(a)(1), July 30, 1965, 79 Stat. 355, effective Jan. 1, 1966, under section 208(d) of Pub. L. 89–97.

Section 728, act Aug. 14, 1935, ch. 531, title V, § 528, as added July 25, 1962, Pub. L. 87–543, title I, § 102(d)(2), 76 Stat. 184, defined, child-welfare "services" and is now covered by section 625 of this title.

§§ 729 to 731. Omitted.

CODIFICATION

Section 729, act Aug. 14, 1935, ch. 531, title V, § 531, as added Oct. 24, 1963, Pub. L. 88–156, § 4, 77 Stat. 274, and amended Jan. 2, 1968, Pub. L. 90–248, title III, § 303, 81 Stat. 929, related to maternity and infant care projects, authorized appropriations of $5,000,000; $15,000,000; $30,000,000; and $35,000,000 for fiscal years ending June 30, 1964, 1965, 1966 and 1967, and 1968, respectively; provided for grants to State health agencies, limitations on payments, scope of projects, health hazards, low-income families, other reasons for lack of health care; and provided for payments to States, adjustments, advances or reimbursement, installments, and conditions, and is now covered by sections 701, 702(1)(B), and 708 of this title. Section 531 of act Aug. 14, 1935, as originally enacted, appropriated funds for vocational rehabilitation, and was classified to section 45b of Title 29, Labor. It was omitted as superseded by section 31 of Title 29.

Section 729–1, act Aug. 14, 1935, ch. 531, title V, § 532, as added July 30, 1965, Pub. L. 89–97, title II, § 205(3), 79 Stat. 354, provided for projects for health of school and preschool children, authorized appropriations of $15,000,000; $35,000,000; $40,000,000; $45,000,000; and $50,000,000 for fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively; provided for grants to State health agencies, medical and dental schools, and teaching hospitals, limitations on payments, eligibility for grants, comprehensive care and services; and provided for payments to States, adjustments, advances or reimbursement, installments, and conditions, and is now covered by sections 701, 702(1)(B), and 709 of this title.

Section 729a, act Aug. 14, 1935, ch. 531, title V, § 533, formerly § 532, as added Oct. 24, 1963, Pub. L. 88–156, § 4, 77 Stat. 274, and renumbered July 30, 1965, Pub. L. 89–97, title II, § 205(2), 79 Stat. 354, provided for research projects relating to maternal and child health services and crippled children's services, auhorized appropriations of $8,000,000 for fiscal year ending June 30, 1964, and each subsequent fiscal year; and provided for payments to eligible institutions, agencies, and organizations, adjustments, advances or reimbursements, installments, and conditions, and is now covered by sections 701, 702 (1)(C), (2)(B), and 712 of this title.

Section 731, act Aug. 14, 1935, ch. 531, title V, § 541, 49 Stat. 634; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(8), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), title IV, § 402(a), 64 Stat. 558, required the Administrator to make studies and investigations to promote efficient administration of former sections 701–703, 704, 705, 711–715, 721–729a, and 731 of this title, and is now covered by section 713(a) of this title.

SUBCHAPTER VI.—PUBLIC HEALTH WORK

§§ 801 to 803. Repealed. July 1, 1944, ch. 373, title XI, § 1113, 58 Stat. 714.

Section 801, acts Aug. 14, 1935, ch. 531, title VI, § 601, 49 Stat. 634; Aug. 10, 1939, ch. 666, title V, § 509, 53 Stat. 1381, which provided appropriations for the purpose of assisting States and subdivisions in maintaining adequate public health services, is now covered by section 246 of this title.

Section 802, act Aug. 14, 1935, ch. 531, title VI, § 602, 49 Stat. 634, which provided for allotments to States by Surgeon General, is now covered by section 246 of this title.

Section 803, act Aug. 14, 1935, ch. 531, title VI, § 603, 49 Stat. 635, which provided appropriations for investigation of diseases by Service, is now covered by section 246 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, 913 by Pub. L. 88–581, § 4(b), Sept. 4, 1964, 78 Stat. 919, 1013 by Pub. L. 89–239, § 3(b), Oct. 6, 1965, 79 Stat. 931, and 1113 by Pub. L. 91–572, § 6(b), Dec. 24, 1970, 84 Stat. 1506.

SUBCHAPTER VII.—ADMINISTRATION

AMENDMENTS

1950—Act Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (f), 64 Stat. 558, substituted "Administration" for "Social Security Board" as the subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1301 of this title.

§ 901. Commissioner for Social Security; appointment; duties.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title VII, § 701, 49 Stat. 635; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; act Aug. 28, 1950, ch. 809, title IV, § 401 (a), 64 Stat. 558, which provided for a Commissioner for Social Security in the Federal Security Agency, was omitted because of the abolition of that office by section 8 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Section 4 of 1953 Reorg. Plan No. 1 established the office of Commissioner of Social Security in the Department of Health, Education, and Welfare.

§ 901a. Repealed. Aug. 28, 1950, ch. 809, title IV, § 401 (b), 64 Stat. 558.

Section, act Aug. 10, 1939, ch. 666, title IX, § 908, 53 Stat. 1402, placed the Social Security Board under the direction and supervision of the Federal Security Administrator.

§ 902. Duties of Secretary of Health, Education, and Welfare and the Secretary of Labor.

The Secretary of Health, Education, and Welfare and the Secretary of Labor, respectively, shall perform the duties imposed upon them by this chapter. The Secretary of Health, Education, and Welfare shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters on administrative policy concerning old-age pensions and related subjects. The Secretary of Labor shall also have the duty of studying and making recommendations as to legislation and matters of administrative policy concerning unemployment compensation, accident compensation and related subjects. (Aug. 14, 1935, ch. 531, title VII, § 702, 49 Stat. 636; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873,

60 Stat. 1095; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Provisions relating to the Secretary of Labor were inserted in view of 1950 Reorg. Plan No. 19, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, set out in the Appendix to Title 5.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of 1949 Reorg. Plan No. II, set out in the Appendix to Title 5.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, which abolished the Social Security Board and transferred its functions and those of its chairman to the Federal Security Administrator to be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he designates. For transfer of personnel, property, records, and funds, see section 12 of 1946 Reorg. Plan No. 2.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency by 1939 Reorg. Plan No. I, §§ 201–203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424, set out in the Appendix to Title 5. See sections 208—211 of that plan for provisions relating to transfer of records, property, funds, and personnel.

CROSS REFERENCES

Exchange of reports of records of compensation or wages and periods of service with Railroad Retirement Board, see section 228e (k) (3) of Title 45, Railroads.

Special joint report with Railroad Retirement Board as to distribution of financial burden between Federal Old-Age and Survivors Insurance Trust Fund and railroad retirement account, see section 228e (k) (2) of Title 45.

§ 903. Expenses of Secretary; appointment and compensation of officers and employees.

The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out his functions under this chapter. Appointments of attorneys and experts may be made without regard to the civil-service laws. (Aug. 14, 1935, ch. 531, title VII, § 703, 49 Stat. 636; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

The civil-service laws referred to in the text, are classified generally to Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see note under section 902 of this title.

§ 904. Annual report to Congress.

The Secretary shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which he is charged under this chapter. In addition to the number of copies of such report authorized by other law to be printed, there is authorized to be printed not more than five thousand copies of such report for use by the Secretary for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the social security program. (Aug. 14, 1935, ch. 531, title VII, § 704, 49 Stat. 636; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title IV, § 402 (b), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" in first sentence and added second sentence.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see note under section 902 of this title.

§ 905. Working capital fund; establishment; amount; use; reimbursement.

There is established a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) a central visual exhibit service; (3) a central supply service for supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department; (4) a central tabulating service; (5) telephone, mail, and messenger services; (6) a central accounting and payroll service; and (7) a central laborers' service: *Provided*,

That any stocks of supplies and equipment on hand or on order shall be used to capitalize such fund: *Provided further,* That such fund shall be reimbursed in advance from funds available to bureaus, offices, and agencies for which such centralized services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment. (July 5, 1952, ch. 575, title II, § 201, 66 Stat. 369; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 2, 1960, Pub. L. 86–703, title II, § 201, 74 Stat. 773.)

CODIFICATION

Section was enacted as a part of the Federal Security Agency Appropriation Act, 1953, and not as a part of the Social Security Act which comprises this chapter.

AMENDMENTS

1960—Pub. L. 86–703 made the fund available for the maintenance and operation of a central visual exhibit service, telephone, mail and messenger services, a central accounting and payroll service, and a central laborers' service.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 906. Training grants for public welfare personnel.

(a) In order to assist in increasing the effectiveness and efficiency of administration of public assistance programs by increasing the number of adequately trained public welfare personnel available for work in public assistance programs, there are authorized to be appropriated for the fiscal year ending June 30, 1963, the sum of $3,500,000, and for each fiscal year thereafter the sum of $5,000,000.

(b) Such portion of the sums appropriated pursuant to subsection (a) of this section for any fiscal year as the Secretary may determine, but not in excess of $1,000,000 in the case of the fiscal year ending June 30, 1963, and $2,000,000 in the case of any fiscal year thereafter, shall be available for carrying out subsection (f) of this section. From the remainder of the sums so appropriated for any fiscal year, the Secretary shall make allotments to the States on the basis of (1) population, (2) relative need for trained public welfare personnel, particularly for personnel to provide self-support and self-care services, and (3) financial need.

(c) From each State's allotment under subsection (b) of this section, the Secretary shall from time to time pay to such State its costs of carrying out the purposes of this section through (1) grants to public or other nonprofit institutions of higher learning for training personnel employed or preparing for employment in public assistance programs, (2) special courses of study or seminars of short duration conducted for such personnel by experts hired on a temporary basis for the purpose, and (3) establishing and maintaining, directly or through grants to such institutions, fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted under regulations of the Secretary.

(d) Payments pursuant to subsection (c) of this section shall be made in advance on the basis of estimates by the Secretary and adjustments may be made in future payments under this section to take account of overpayments or underpayments in amounts previously paid.

(e) The amount of any allotment to a State under subsection (b) of this section for any fiscal year which the State certifies to the Secretary will not be required for carrying out the purposes of this section in such State shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines have need in carrying out such purposes for sums in excess of those previously allotted to them under this section and will be able to use such excess amounts during such fiscal year; such reallotments to be made on the basis provided in subsection (b) of this section for the initial allotments to the States. Any amount so reallotted to a State shall be deemed part of its allotment under such subsection.

(f) (1) The portion of the sums appropriated for any fiscal year which is determined by the Secretary under the first sentence of subsection (b) of this section to be available for carrying out this subsection shall be available to enable him to provide (A) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for training personnel who are employed or preparing for employment in the administration of public assistance programs, (B) directly or through grants to or contracts with public or nonprofit private agencies or institutions, for special courses of study or seminars of short duration (not in excess of one year) for training of such personnel, and (C) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for establishing and maintaining fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted by the Secretary.

(2) Payments under paragraph (1) may be made in advance on the basis of estimates by the Secretary, or may be made by way of reimbursement, and adjustments may be made in future payments under this subsection to take account of overpayments or underpayments in amounts previously paid.

(3) The Secretary may, to the extent he finds such action to be necessary, prescribe requirements to assure that any individual will repay the amount of his fellowship or traineeship received under this subsection to the extent such individual fails to serve, for the period prescribed by the Secretary, with a State or political subdivision thereof, or with the Federal Government, in connection with administration of any State or local public assistance program. The Secretary may relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that requirement of such repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the public welfare programs established by this chapter. (Aug. 14, 1935, ch. 531, title VII, § 705, as added Aug. 1, 1956, ch. 836, title III, § 332, 70 Stat.

851, and amended May 8, 1961, Pub. L. 87–31, § 3, 75 Stat. 77; July 25, 1962, Pub. L. 87–543, title I, § 123 (a)—(c), 76 Stat. 192.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–543, § 123(a), substituted "for the fiscal year ending June 30, 1963, the sum of $3,500,000, and for each fiscal year thereafter the sum of $5,000,000" for "for the fiscal year ending June 30, 1958, the sum of $5,000,000, and for each of the five succeeding fiscal years such sums as the Congress may determine."

Subsec. (b). Pub. L. 87–543, § 123(b), required appropriated moneys to be made available for carrying out subsec. (f) of this section.

Subsec. (f). Pub. L. 87–543, § 123(c), added subsec. (f).

1961—Subsec. (a). Pub. L. 87–31, § 3(a), substituted "five" for "four."

Subsec. (c). Pub. L. 87–31, § 3(b), substituted "its costs of carrying out the purposes of this section" for "80 per centum of the total of its expenditures in carrying out the purposes of this section."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsecs. (a) and (b) and enactment of subsec. (f) of this section by section 123 (a)—(c) of Pub. L. 87–543 applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87–543, set out as a note under section 722 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3(b) of Pub. L. 87–31 provided in part that the amendment of subsec. (c) by such section 3(b) shall be effective with respect to payments from allotments from appropriations made for fiscal years beginning after June 30, 1961.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

§ 907. Advisory Council on Social Security.

(a) Initial and quinquennial appointment; review of status of Funds, scope of coverage, adequacy of benefits, impact on public assistance, and other program aspects.

During 1969 (but not before February 1, 1969) and every fourth year thereafter (but not before February 1 of such fourth year), the Secretary shall appoint an Advisory Council on Social Security for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program and the programs under parts A and B of subchapter XVIII of this chapter, and of reviewing the scope of coverage and the adequacy of benefits under, and all other aspects of, these programs, including their impact on the public assistance programs under this chapter.

(b) Membership; Chairman; representation of interests.

Each such Council shall consist of a Chairman and 12 other persons, appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, and represent self-employed persons and the public.

(c) Technical assistance; actuarial services; availability of assistance and data; compensation and travel expenses.

(1) Any Council appointed hereunder is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary shall, in addition, make available to such Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Appointed members of any such Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government employed intermittently.

(d) Reports to Congress; termination of Council.

Each such Council shall submit reports (including any interim reports such Council may have issued) of its findings and recommendations to the Secretary not later than January 1 of the second year after the year in which it is appointed, and such reports and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of each of the Trust Funds. The reports required by this subsection shall include—

(1) a separate report with respect to the old-age, survivors, and disability insurance program under subchapter II of this chapter and of the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of Title 26,

(2) a separate report with respect to the hospital insurance program under part A of subchapter XVIII of this chapter and of the taxes imposed by sections 1401(b), 3101(b), and 3111(b) of Title 26, and

(3) a separate report with respect to the supplementary medical insurance program established by part B of subchapter XVIII of this chapter and of the financing thereof.

After the date of the transmittal to the Congress of the reports required by this subsection, the Council shall cease to exist. (Aug. 14, 1935, ch. 531, title VII, § 706, as added July 30, 1965, Pub. L. 89–97, title I, § 109(a), 79 Stat. 339, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 165, title IV, § 403(d), 81 Stat. 874, 932.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 165(a)(1), substituted "During" 1969 (but not before February 1, 1969) and every fourth year thereafter (but not before February 1 of such fourth year)" for "During 1968 and every fifth year thereafter".

Subsec. (b). Pub. L. 90–248, §§ 165(b), 403(d)(1), substituted "a Chairman" for "the Commissioner of Social Security, as Chairman,", and "provisions of Title 5, governing appointments in the competitive service" for "civil service laws".

Subsec. (c)(2). Pub. L. 90–248, § 403(d)(2), substituted reference to section 5703 for former section 73b–2 of Title 5.

Subsec. (d). Pub. L. 90–248, § 165(a)(2), insert "(including any interim reports such Council may have issued)" following "reports".

§ 908. Grants for expansion and development of undergraduate and graduate programs.

(a) Authorization of appropriations; minimum sums for undergraduate programs.

There is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1969, and $5,000,000 for each of the three succeeding fiscal years, for grants by the Secretary to public or nonprofit private colleges and universities and to accredited graduate schools of social work or an association of such schools to meet part of the costs of development, expansion, or improvement of (respectively) undergraduate programs in social work and programs for the graduate training of professional social work personnel, including the costs of compensation of additional faculty and administrative personnel and minor improvements of existing facilities. Not less than one-half of the sums appropriated for any fiscal year under the authority of this subsection shall be used by the Secretary for grants with respect to undergraduate programs.

(b) Personnel trained in social work; relative need in the States.

In considering applications for grants under this section, the Secretary shall take into account the relative need in the States for personnel trained in social work and the effect of the grants thereon.

(c) Payments; adjustments; advances or reimbursement; terms and conditions; installments.

Payment of grants under this section may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

(d) Definitions.

For purpose of this section—

(1) the term "graduate school of social work" means a department, school, division, or other administrative unit, in a public or nonprofit private college or university, which provides, primarily or exclusively, a program of education in social work and allied subjects leading to a graduate degree in social work;

(2) the term "accredited" as applied to a graduate school of social work refers to a school which is accredited by a body or bodies approved for the purpose by the Commissioner of Education or with respect to which there is evidence satisfactory to the Secretary that it will be so accredited within a reasonable time; and

(3) the term "nonprofit" as applied to any college or university refers to a college or university which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(Aug. 14, 1935, ch. 531, title VII, § 707, as added Jan. 2, 1968, Pub. L. 90-248, title IV, § 401, 81 Stat. 930.)

SUBCHAPTER VIII.—TAXES WITH RESPECT TO EMPLOYMENT

§§ 1001 to 1011. Omitted.

CODIFICATION

Sections, act Aug. 14, 1935, ch. 531, title VIII, §§ 801–811, 49 Stat. 636–639, related to taxes with respect to employment. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. The omitted sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Omitted sections	I. R. C. 1939	I. R. C. 1954
1001	1400	3101.
1002	1402	3502.
1003	1401	3102 (a), (b), 6205 (a), 6413 (a) (1), (c) (1), (c) (2).
1004	1410	3111.
1005	1411	6205 (a), 6413 (a).
1006	1421	6205 (b), 6413 (b).
1007	1420, 1430	3122, 3501, 6011 (a), 6071, 6081 (a), 6091 (a), 6302 (b), 6313, 6601 (a), (f) (1).
1008	1429	7805 (a), (c).
1009	1423, 1424	6802 (1), 6803 (a) (1), (a) (2), 7509.
1010	1425	7208 (1), 7209.
1011 (as amended Aug. 10, 1939, ch. 666, title IX, § 905 (a), 53 Stat. 1400).	1426	3121, 7701 (a) (1).

SUBCHAPTER IX.—EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING

AMENDMENTS

1954—Act Aug. 5, 1954, ch. 657, § 2, 68 Stat. 668, in amending this subchapter generally substituted subchapter heading "Employment Security Administrative Financing" for "Tax on Employment of Eight or More".

PRIOR LAW; TAX ON EMPLOYERS OF EIGHT OR MORE

Former subchapter IX, sections 1101–1103, 1105–1110, act Aug. 14, 1935, ch. 531, title IX, §§ 901–903, 905–910, 49 Stat. 639–644, related to taxes on employers of eight or more. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. Said prior law sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Former sections	I. R. C. 1939	I. R. C. 1954
1101	1600	3301.
1102	1601 (a)	3302.
1103 (as amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065).	1603	3304.
1105	1604, 1605, 1610	3501, 6011 (a), 6065, 6071, 6081 (a), 6091 (b) (1), (2), 6106, 6152 (a) (3), (b), 6161 (a) (1), 6313, 6601 (a), (f) (1).
1106	1606	3305.
1107 (as amended act June 25, 1938, ch. 680, § 13 (a), 52 Stat. 1110).	1607	3306, 7701 (a) (1).
1108	1609	7805 (a), (c).
1109	1601 (b), (c)	3302.
1110 (as amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F. R. 5225, 63 Stat. 1065).	1602	3303.

REPAIR OF 1938 HURRICANE DAMAGE

Act. Aug. 11, 1939, ch. 719, § 1, 53 Stat. 1420, provided that no special security taxes should be collected for work done prior to Jan. 1, 1940, in cleaning up debris and damage caused by the 1938 hurricane.

CREDITS AGAINST SOCIAL SECURITY TAX

Act Aug. 10, 1939, ch. 666, title IX, § 902 (a)-(d), (h), 53 Stat. 1399, provided for a credit against the social security tax of certain contributions made with respect to employment during calendar years 1936, 1937, or 1938. Said act Aug. 10, 1939, was affected by act Sept. 20, 1941, ch. 412, title VII, § 701(c), 55 Stat. 728.

Act May 28, 1938, ch. 289, § 810, 52 Stat. 576, related to credits against Social Security Tax for 1936. It was affected by act Sept. 20, 1941, ch. 412, title VII, § 701(c), 55 Stat. 728, relating to credit against Federal unemployment taxes.

§ 1101. Employment Security Administration Account.

(a) Establishment.

There is established in the Unemployment Trust Fund an employment security administration account.

(b) Amount credited to the Account; transfer of funds; adjustments; repayment of internal revenue refunds.

(1) There is appropriated to the Unemployment Trust Fund for credit to the employment security administration account, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1961, and for each fiscal year thereafter, an amount equal to 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act and covered into the Treasury.

(2) The amount appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Unemployment Trust Fund and credited to the employment security administration account. Each such transfer shall be based on estimates made by the Secretary of the Treasury of the amounts received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred, to the extent prior estimates (including estimates for the fiscal year ending June 30, 1960) were in excess of or were less than the amounts required to be transferred.

(3) The Secretary of the Treasury is directed to pay from time to time from the employment security administration account into the Treasury, as repayments to the account for refunding internal revenue collections, amounts equal to all refunds made after June 30, 1960, of amounts received as tax under the Federal Unemployment Tax Act (including interest on such refunds).

(c) Administrative expenditures; necessary expenses; quarterly transfer of funds; adjustments; limitation; estimate of net receipts.

(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1971, and for each fiscal year thereafter—

(A) such amounts (not in excess of the applicable limit provided by paragraph (3) and, with respect to clause (ii), not in excess of the limit provided by paragraph (4)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in subchapter III of this chapter (including administration pursuant to agreements under any Federal unemployment compensation law),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended, and

(iii) carrying into effect section 2003 of Title 38;

(B) such amounts (not in excess of the limit provided by paragraph (4) with respect to clause (iii)) as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this subchapter and subchapters III and XII of this chapter,

(ii) the Federal Unemployment Tax Act,

(iii) the provisions of the Act of June 6, 1933, as amended,

(iv) chapter 41 (except section 2003) of Title 38, and

(v) any Federal unemployment compensation law.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbusing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this subchapter and subchapters III and XII of this chapter, including the expenses of banks for servicing unemployment benefit payment and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act, and

(C) any Federal unemployment compensation law with respect to which responsibility for administration is vested in the Secretary of Labor.

If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

(3)(A) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of subsection (f)(3)(A) of this section, an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the

amount by which the net receipts during such year under the Federal Unemployment Tax Act will exceed the amount transferred under section 1105(m) of this title during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with subsection (f)(2)(B) of this section.

(C) Each estimate of net receipts under this paragraph shall be based upon a tax rate of 0.5 percent.

(4) For purposes of paragraphs (1)(A)(ii) and (1)(B)(iii) the amount authorized to be made available out of the employment security administration account for any fiscal year after June 30, 1972, shall reflect the proportion of the total cost of administering the system of public employment offices in accordance with the Act of June 6, 1933, as amended, and of the necessary expenses of the Department of Labor for the performance of its functions under the provisions of such Act, as the President determines is an appropriate charge to the employment security administration account, and reflects in his annual budget for such year. The President's determination, after consultation with the Secretary, shall take into account such factors as the relationship between employment subject to State laws and the total labor force in the United States, the number of claimants and the number of job applicants, and such other factors as he finds relevant.

(d) Additional tax attributable to reduced credits; transfer of funds.

(1) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the Federal unemployment account, an amount equal to the amount by which—

(i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act with respect to any State by reason of the reduced credits provisions of section 3302(c)(3) of such Act and covered into the Treasury for the repayment of advances made to the State under section 1321 of this title, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

Any amount transferred pursuant to this subparagraph shall be credited against, and shall operate to reduce, that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax, an amount equal to the amount by which such additional tax received and covered into the Treasury exceeds that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) of this section.

(e) Revolving fund; appropriations; advances to the Account; repayment; interest.

(1) There is established in the Treasury a revolving fund which shall be available to make the advances authorized by this subsection. There are authorized to be appropriated, without fiscal year limitation, to such revolving fund such amounts as may be necessary for the purposes of this section.

(2) The Secretary of the Treasury is directed to advance from time to time from the revolving fund to the employment security administration account such amounts as may be necessary for the purposes of this section. If the net balance in the employment security administration account as of the begining of any fiscal year equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the preceding fiscal year, no advance may be made under this subsection during such fiscal year.

(3) Advances to the employment security administration account made under this subsection shall bear interest until repaid at a rate equal to the average rate of interest (computed as of the end of the calendar month next preceding the date of such advance) borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) Advances to the employment security administration account made under this subsection, plus interest accrued thereon, shall be repaid by the transfer from time to time, from the employment security administration account to the revolving fund, of such amounts as the Secretary of the Treasury, in consultation with the Secretary of Labor, determines to be available in the employment security administration account for such repayment. Any amount transferred as a repayment under this paragraph shall be credited against, and shall operate to reduce, any balance of advances (plus accrued interest) repayable under this subsection.

(f) Determination of excess in the Account; limitation on amount to be retained; use of balance in the Account during certain fiscal years; net balance.

(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2)(A) Except as provided in subparagraph (B), the excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 1102(b) of this title) and paragraph (3)(C) of this subsection exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for

which the net balance was higher than as of the beginning of any other such fiscal year.

(B) With respect to the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, the balance in the employment security administration account at the close of each such fiscal year shall not be considered excess but shall be retained in the account for use as provided in paragraph (1) of subsection (c) of this section.

(3)(A) The excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account until the amount in such account is equal to 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the fiscal year for which the excess is determined. Three-eighths of the amount in the employment security administration account as of the beginning of any fiscal year after June 30, 1972, or $150 million, whichever is the lesser, is authorized to be made available for such fiscal year pursuant to subsection (c)(1) of this section for additional costs of administration due to an increase in the rate of insured unemployment for a calendar quarter of at least 15 percent over the rate of insured unemployment for the corresponding calendar quarter in the immediately preceding fiscal year.

(B) If the entire amount of the excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, is not retained in the employment security administration account, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the balance of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to the limit provided in section 1105(b)(2) of this title.

(C) If as of the close of any fiscal year after June 30, 1972, the amount in the extended unemployment compensation account exceeds the limit provided in section 1105(b)(2) of this title, such excess shall be transferred to the employment security administration account as of the close of such fiscal year.

(4) For the purposes of this section, the net balance in the employment security administration account as of any time is the amount in such account as of such time reduced by the sum of—

(A) the amounts then subject to transfer pursuant to subsection (d), of this section, and

(B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e) of this section.

The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year. (Aug. 14, 1935, ch. 531, title IX, § 901, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 668, and amended Sept. 13, 1960, Pub. L. 86–778, title V, § 521, 74 Stat. 970; May 8, 1961, Pub. L. 87–31, § 7, 75 Stat. 78; May 29, 1963, Pub. L. 88–31, § 1, 77 Stat. 51; Aug. 7, 1969, Pub. L. 91–53, § 3, 83 Stat. 93; Aug. 10, 1970, Pub. L. 91–373, title III, § 303, 84 Stat. 713.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsecs. (b)(1), (3), (c)(1)(B)(ii), (2)(B), (3)(A), (B), (d)(1)(A)(i), (2)(A)(i), is classified to chapter 23 of Title 26, Internal Revenue Code.

The Act of June 6, 1933, as amended, referred to in subsec. (c)(1) text, is classified to section 49 et seq. of Title 29, Labor.

Section 3302(c)(2) or (3) of such Act, referred to in subsec. (d)(1)(A)(i), and section 3302(c)(2) of the Federal Unemployment Tax Act, section 3302(c)(2) and (3) of such act, referred throughout the concluding paragraph of subsec. (d)(1), are references to section 3302(c)(2) and (3) of Title 26, Internal Revenue Code.

The Temporary Unemployment Compensation Act of 1958, as amended, referred to in subsec. (c)(1)(A)(i), (B)(v) and concluding paragraph of subsec. (c)(2), is classified to chapter 7A of this title.

Within 30 days after the date of enactment of this paragraph, referred to in subsec. (c)(3), means within 30 days after the enactment of Pub. L. 88–31, approved May 29, 1963.

AMENDMENTS

1970—Subsec. (c)(1). Pub. L. 91–373, § 303(a)(1), substituted "fiscal year ending June 30, 1971" for "fiscal year ending June 30, 1964", added reference to par. (4), struck out reference to the Temporary Unemployment Compensation Act of 1958, as amended, and substituted "section 2003 of Title 38" for "section 2012 of Title 38".

Subsec. (c)(2). Pub. L. 91–373, § 303(a)(2), struck out provision for the exclusion of amounts attributable to the Temporary Unemployment Compensation Act of 1958, as amended.

Subsec. (c)(3). Pub. L. 91–373, § 303(a)(3), changed the ceiling on the amount in the employment security administration account authorized for appropriation for state grants by making it 95 percent of the amount set forth in the budget of the United States Government as the amount by which the net receipts during the fiscal year are estimated to exceed the amount transferred to the extended unemployment compensation account under section 1105(b) of this title.

Subsec. (c)(4). Pub. L. 91–373, § 303(a)(4), added subsec. (c)(4).

Subsec. (d). Pub. L. 91–373, § 303(b), struck out reference to section 3302(c)(2) of the Federal Unemployment Tax Act in par. (1)(A)(i), struck out provision for separate application of par. (1) in years in which there was both a balance described in sections 3302(c)(2) and 3302(c)(3) of the Federal Unemployment Tax Act, redesignated par. (3) as par. (2), and struck out former par. (2) covering the transfer of funds from the employment security administration account to the general fund of the Treasury and to the state account, with respect to which employers paid additional tax, received by reason of the reduced credit provisions of section 1400c of this title.

Subsec. (e)(2). Pub. L. 91–373, § 303(c), substituted "equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account of the preceding fiscal year" for "is $250,000,000".

Subsec. (f)(2)(A). Pub. L. 91–373, § 303(d)(1), inserted reference to par. (3)(C) of this subsection.

Subsec. (f)(3). Pub. L. 91–373, § 303(d)(2), revised the provisions for the distribution of any excess in the employment security administration account at the end of any fiscal year after June 30, 1972.

1969—Subsec. (c)(3). Pub. L. 91–53, § 3(a), eliminated subpar. (A) provisions limiting expenditures for fiscal year ending June 30, 1964, to 95 percent of amount estimated by the Secretary of Treasury as the net receipts during such fiscal year under the Federal Unemployment Tax Act, redesignated subpar. (B) provisions as par. (3) without restricting their application to fiscal years ending after June 30, 1964, increased the expenditure limitation by unexpended amount retained in the employment security administration account in accordance with subsec. (f)(2)(B) of this section, reenacted provision for

estimate of net receipts, and eliminated dated provisions requiring the Secretary of Treasury to report to Congress his estimate under subpar. (A) within thirty days after May 29, 1963, the date of enactment of Pub. L. 88-31, and providing for its printing as a House document.

Subsec. (f)(2). Pub. L. 91-53, § 3(b), designated existing provisions as subpar. (A), inserted the introductory text "Except as provided in subparagraph (B)", and added subpar. (B).

1963—Subsec. (c). Pub. L. 88-31 substituted "June 30, 1964" for "June 30, 1961" in par. (1), "(not in excess of the limit provided by paragraph (3))" for "(not in excess of $350,000,000 for any fiscal year)" in par. (1)(A), and added par. (3).

1961—Subsec. (c)(1)(B). Pub. L. 87-31 added the provision relating to necessary expenses.

1960—Subsec. (a). Pub. L. 86-778 substituted the provision establishing the employment security administration account for former provision making an appropriation to the Unemployment Trust Fund for fiscal year ending June 30, 1954 and for each fiscal year thereafter, providing for transfer of funds from the general fund in the Treasury to the Unemployment Trust Fund at the close of the fiscal year, and adjustments in the transfers, and requiring the Secretary of the Treasury to consult with the Secretary of Labor with respect to estimates of employment security administrative expenditures.

Subsec. (b). Pub. L. 86-778 substituted provisions crediting the employment security administration with funds, and requiring transfer of funds, adjustments and repayment of internal revenue refunds for former provisions defining the term "employment security administrative expenditures", now incorporated in subsec. (c)(1)(A)(B), (2)(A) of this section.

Subsecs. (c)—(f). Pub. L. 86-778 added subsecs. (c)—(f).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 303(a) of Pub. L. 91-373 provided in part that the amendment of subsec. (c) of this section by section 303(a) of Pub. L. 91-373 is effective with respect to fiscal years after June 30, 1970.

Section 303(c) of Pub. L. 91-373 provided in part that the amendment of subsec. (e)(2) of this section by section 303(c) of Pub. L. 91-373 is effective July 1, 1972.

Section 303(d) of Pub. L. 91-373 provided in part that the amendment of subsec. (f) of this section by section 303(d) of Pub. L. 91-373 is effective with respect to fiscal years after June 30, 1972.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 4(b) of Pub. L. 91-53 provided that: "The amendments made by section 3 [to subsecs. (c)(3) and (f)(2) of this section] shall take effect upon enactment of this Act [Aug. 7, 1969]."

SHORT TITLE OF 1960 AMENDMENTS

Section 501 of Pub. L. 86-778 provided that title V of Pub. L. 86-778, which enacted section 3308 of Title 26, Internal Revenue Code, amended this section and sections 501, 1102—1104, 1301, 1321—1324, 1361—1364, 1367, 1371 and 1400c of this title, sections 3301, 3302, 3305 and 3306 of Title 26, and section 49d of Title 29, Labor, and enacted provisions set out as notes under sections 1301, 1321 and 1362—1364 of this title, under sections 3301, 3304 and 3305 of Title 26, and under section 49d of Title 29, may be cited as the "Employment Security Act of 1960."

SHORT TITLE

Section 1 of act Aug. 5, 1954, provided that: "This Act [enacting sections 1101—1103, 1322, and 1323 of this title, and amending sections 503, 1104, and 1321 of this title and sections 1601, 1603, and 1607 of Title 26, I.R.C. 1939] may be cited as the 'Employment Security Administration Financing Act of 1954'."

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEAR 1963

Section 4 of Pub. L. 88-31 provided that: "Notwithstanding section 901(c)(1)(A) of the Social Security Act [subsec. (c)(1)(A) of this section], the limitation on the amount authorized to be made available for the fiscal year ending June 30, 1963, for the purposes specified in such section 901(c)(1)(A) [subsec. (c)(1)(A) of this section] is hereby increased to $407,148,000."

Section 101 of Pub. L. 87-582, title I, Aug. 14, 1962, 76 Stat. 363, provided that: "Notwithstanding section 901(c)(1)(A) of the Social Security Act [subsec. (c)(1)(A) of this section], the limitation on the amount authorized to be made available for the fiscal year ending June 30, 1963, for the purposes specified in such section 901(c)(1)(A) [subsec. (c)(1)(A) of this section] is hereby increased to $400,000,000."

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEARS 1961 AND 1962

Section 15 of Pub. L. 87-6, Mar. 24, 1961, 75 Stat. 16, provided that:

"Notwithstanding section 901(c)(1)(A) of the Social Security Act [subsec. (c)(1)(A) of this section], the limitation on the amount authorized to be made available for the fiscal years ending on June 30, 1961, and 1962, for the purposes specified in such section 901(c)(1)(A) [such subsec. (c)(1)(A)] is hereby increased to—

"(1) $385,000,000 for the fiscal year ending June 30, 1961, and

"(2) $415,000,000 for the fiscal year ending June 30, 1962."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 50, 1102, 1103, 1105, 1321, 1323 of this title.

§ 1102. Transfers between Federal Unemployment Account and Employment Security Administration Account; Report to Congress.

(a) Whenever the Secretary of the Treasury determines pusuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year and the entire amount of such excess is not retained in the employment security administration account or transferred to the extended unemployment compensation account as provided in section 1101(f)(3) of this title, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account the balance of such excess or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

(1) $550 million, or

(2) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to one-eighth of 1 percent of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(b) The amount, if any, by which the amount in the Federal unemployment account as of the close of any fiscal year exceeds the greater of the amounts specified in paragraphs (1) and (2) of subsection (a) of this section shall be transferred to the employment security administration account as of the close of such fiscal year.

(c) Whenever the Secretary of Labor has reason to believe that in the next fiscal year the employment security administration account will reach the limit provided for such account in section 1101(f)(3)(A) of this title, and the Federal unemployment account will reach the limit provided for such account in subsection (a) of this section, and the extended unemployment compensation account will reach the limit provided for such account in section 1105(b)(2) of this title, he shall, after consultation

with the Secretary of the Treasury, so report to the Congress with a recommendation for appropriate action by the Congress. (Aug. 14, 1935, ch. 531, title IX, § 902, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 669, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 974; Aug. 10, 1970, Pub. L. 91-373, title III, § 304 (a), (b), 84 Stat. 715, 716.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-373, § 304(a), inserted, in the material preceding par. (1), reference to the retention of the entire amount of the excess in the employment security administration account or the transfer to the extended unemployment compensation account as provided in section 1101 (f)(3) of this title and, in par. (2), substituted "one-eighth of 1 percent" for "four-tenths of 1 per centum".

Subsec. (c). Pub. L. 91-373, § 304(b), added subsec. (c).

1960—Pub. L. 86-778 substituted provisions for transfers between Federal unemployment account and employment security administration account for former provisions crediting the Federal unemployment account with funds and defining the term "adjusted balance".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103 of this title.

§ 1103. Amounts transferred to State accounts.

(a) Determination and certification by Secretary of Labor.

(1) If as of the close of any fiscal year after the fiscal year ending June 30, 1972, the amount in the extended unemployment compensation account has reached the limit provided in section 1105(b)(2) of this title and the amount in the Federal unemployment account has reached the limit provided in section 1102(a) of this title and all advances pursuant to section 1105(d) of this title and section 1323 of this title have been repaid, and there remains in the employment security administration account any amount over the amount provided in section 1101(f)(3)(A) of this title, such excess amount, except as provided in subsection (b) of this section, shall be transferred (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund.

(2) Each State's share of the funds to be transferred under this subsection as of any July 1—

(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before June 1, and

(B) shall bear the same ratio to the total amount to be so transferred as the amount of wages subject to contributions under such State's unemployment compensation law during the preceding calendar year which have been reported to the State before May 1 bears to the total of wages subject to contributions under all State unemployment compensation laws during such calendar year which have been reported to the States before May 1.

(b) Transfer of funds where State is ineligible.

(1) If the Secretary of Labor finds that on July 1 of any fiscal year—

(A) a State is not eligible for certification under section 503 of this title, or

(B) the law of a State is not approvable under section 3304 of Title 26,

then the amount available for transfer to such State's account shall, in lieu of being so transferred, be transferred to the Federal unemployment account as of the beginning of such July 1. If, during the fiscal year beginning on such July 1, the Secretary of Labor finds and certifies to the Secretary of the Treasury that such State is eligible for certification under section 503 of this title, that the law of such State is approvable under such section 3304, or both, the Secretary of the Treasury shall transfer such amount from the Federal unemployment account to the account of such State. If the Secretary of Labor does not so find and certify to the Secretary of the Treasury before the close of such fiscal year then the amount which was available for transfer to such State's account as of July 1 of such fiscal year shall (as of the close of such fiscal year) become unrestricted as to use as part of the Federal unemployment account.

(2) The amount which, but for this paragraph, would be transferred to the account of a State under subsection (a) or paragraph (1) of this subsection shall be reduced (but not below zero) by the balance of advances made to the State under section 1321 of this title. The sum by which such amount is reduced shall—

(A) be transferred to or retained in (as the case may be) the Federal unemployment account, and

(B) be credited against, and operate to reduce—

(i) first, any balance of advances made before September 13, 1960 to the State under section 1321 of this title, and

(ii) second, any balance of advances made on or after September 13, 1960 to the State under section 1321 of this title.

(c) Use of funds.

(1) Except as provided in paragraph (2), amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—

(A) the purposes and amounts were specified in the law making the appropriation,

(B) the appropriation law did not authorize the obligation of such money after the close of the two-year period which began on the date of enactment of the appropriation law,

(C) the money is withdrawn and the expenses are incurred after such date of enactment, and

(D) the appropriation law limits the total amount which may be obligated during a fiscal year to an amount which does not exceed the amount by which (i) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b) of this section during such fiscal year and the fourteen preceding fiscal years, exceeds (ii) the aggregate of the amounts used by the State pursuant to this subsection and

charged against the amounts transferred to the account of such State during such fifteen fiscal years.

For the purposes of subparagraph (D), amounts used by a State during any fiscal year shall be charged against equivalent amounts which were first transferred and which have not previously been so charged; except that no amount obligated for administration during any fiscal year may be charged against any amount transferred during a fiscal year earlier than the fourteenth preceding fiscal year. (Aug. 14, 1935, ch. 531, title IX, § 903, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 670, and amended Sept. 13, 1960, Pub. L. 86–778, title V, § 521, 74 Stat. 974; May 29, 1963, Pub. L. 88–31, § 3, 77 Stat. 51; July 26, 1968, Pub. L. 90–430, 82 Stat. 447; Aug. 10, 1970, Pub. L. 91–373, title III, § 305(b), 84 Stat. 717.)

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–373 inserted references to the limits provided in sections 1102(a) and 1105(b)(2) of this title, advances pursuant to section 1105(d) of this title, and the amount provided in section 1101(f)(3)(A) of this title.

1968—Subsec. (c). Pub. L. 90–430 substituted in par. (2)(D)(i) "fourteen" for "nine", in par. (2)(D)(ii) "fifteen" for "ten", and in material following par. (2)(D) "fourteenth" for "ninth".

1963—Subsec. (c)(2). Pub. L. 88–31 substituted "nine preceding fiscal years" for "four preceding fiscal years", "ten fiscal years" for "five fiscal years" in clause (D), and "ninth preceding fiscal year" for "fourth preceding fiscal year" in the last sentence.

1960—Subsec. (a). Pub. L. 86–778 substituted the provisions of par. (1) for the first sentence of the section which read "So much of any amount transferred to the Unemployment Trust Fund at the close of any fiscal year under section 1101(a) of this title as is not credited to the Federal unemployment account under section 1102 of this title shall be credited (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund" and designated existing provisions of the second sentence as par. (2), substituting "transferred" for "credited" therein, and deleting "on or" preceding "before" in subpar. (A).

Subsec. (b). Pub. L. 86–778 redesignated existing provisions as par. (1) and clauses (1) and (2) thereof as subpars. (A) and (B), substituted "section 3304 of Title 26" for "section 1603 of Title 26", in two instances, and "transfer to such States' account", "transferred", and "transfer" for "crediting to such States' account", "credited" and "credit", respectively, except where already reading "shall transfer", and added par. (2).

Subsec. (c). Pub. L. 86–778 substituted "transferred" for "credited", wherever appearing, "obligation" for "expenditure" in par. (2)(B), "obligated" for "so used" in par. (2)(D), and "obligated for administration" for "used" in concluding par., inserted references to subsection (b) in pars. (1) and (2)(D), and deleted "any of" preceding "such five fiscal years" in par. (2)(D).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 1321 of this title; title 26 sections 3304, 3306.

§ 1104. Unemployment Trust Fund.

(a) Establishment.

There is established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this subchapter called the "Fund." The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury, with any depositary designated by him for such purpose, or with any Federal Reserve Bank.

(b) Investments.

It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition. Advances made to the Federal unemployment account pursuant to section 1323 of this title shall not be invested.

(c) Sale or redemption of obligations.

Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Treatment of interest and proceeds.

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) Separate book accounts.

The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the employment security administration account, the Federal unemployment account, the railroad unemployment insurance account, and the railroad unemployment insurance administration fund and shall credit quarterly (on March 31, June 30, September 30, and December 31, of each year) to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the

account by the balance of advances made to the State under section 1321 of this title, and

(2) in the case of the Federal unemployment account—

(A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and

(B) by subtracting from the sum so obtained the balance of advances made under section 1323 of this title to the account.

(f) Payment to State agencies and Railroad Retirement Board.

The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.

(g) Federal Unemployment Account; establishment; appropriations; unemployment administrative expenditures.

There is established in the Unemployment Trust Fund a Federal unemployment account. There is authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected under the Federal Unemployment Tax Act after June 30, 1946, and prior to July 1, 1953, over the unemployment administrative expenditures made after June 30, 1946, and prior to July 1, 1953. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under subchapter III of this chapter, expenditures for the administration of that subchapter by the Social Security Board, the Federal Security Administrator, or the Secretary of Labor, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act, by the Department of the Treasury, the Social Security Board, the Federal Security Administrator, or the Secretary of Labor. For the purposes of this subsection, there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of $40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754), and the sum of $18,451,846 which was authorized to be appropriated by section 361(b) of title 45. (Aug. 14, 1935, ch. 531, title IX, § 904, 49 Stat. 640; June 25, 1938, ch. 680, § 10 (e—g), 52 Stat. 1104, 1105; Oct. 3, 1944, ch. 480, title IV, § 401, 58 Stat. 789; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 6, 1947, ch. 510, § 5(a), 61 Stat. 794; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5325, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 404(b), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 5(b)—(f), 68 Stat. 673; Sept. 6, 1958, Pub. L. 85–927, pt. II, § 204, 72 Stat. 1782; Sept. 22, 1959, Pub. L. 86–346, title I, § 104(3), 73 Stat. 622; Sept. 13, 1960, Pub. L. 86–778, title V, § 521, 74 Stat. 976.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, and sections 757c–2, 757c–3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

Title IX of this Act, referred to in subsec. (g), was formerly set out as sections 1101—1103, 1105—1110 of this title. See "Prior Law, Tax on Employers of Eight or More" note set out preceding section 1101 of this title.

Federal Unemployment Tax Act, referred to in subsec. (g), was formerly classified to sections 1600—1611 of Title 26, Internal Revenue Code, 1939. Said sections were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3301—3308 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Act of Aug. 24, 1937 (50 Stat. 754), referred to in subsec. (g), is act Aug. 24, 1937, ch. 755, 50 Stat. 754, and is set out as a note below.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86–778 substituted "with any depositary designated by him for such purpose, or with any Federal Reserve Bank" for "or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose."

Subsec. (b). Pub. L. 86–778 substituted "Second Liberty Bond Act, as amended" and "section 1323" for "section 752 of Title 31" and "section 1322(c)", respectively, and inserted "made" following "Advances."

Subsec. (e). Pub. L. 86–778 provided for the maintenance of a separate book account for the employment security administration account and substituted "balance of advances made to the State under section 1321 of this title" for "aggregate of the outstanding advances under section 1321 of this title from the Federal unemployment account" in par. (1) and "balance of advances made under section 1323 of this title to the account" for "aggregate of the outstanding advances from the Treasury to the account pursuant to section 1322(c) of this title."

Subsec. (g). Pub. L. 86–778 redesignated former subsec. (h) as (g).

1959—Subsec. (b). Pub. L. 86–346 substituted "on original issue at the issue price" for "on original issue at par."

1958—Subsec. (a). Pub. L. 85–927, § 204(a), inserted "or the railroad unemployment insurance administration fund".

Subsec. (e). Pub. L. 85–927, § 204(b), substituted "the railroad unemployment insurance account, and the railroad unemployment insurance administration fund" for "and the railroad unemployment insurance account".

Subsec. (f). Pub. L. 85–927, § 204(c), substituted "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment" for "fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment".

1954—Subsec. (a). Act Aug. 5, 1954, § 5(b), substituted "or otherwise deposited in or credited to the Fund or any account therein" for "or deposited pursuant to appropriations to the Federal unemployment account".

Subsec (b). Act Aug. 5, 1954, § 5(c), added last sentence beginning "Advances to the Federal * * *".

Subsec. (e). Act Aug. 5, 1954, § 5(d) added last sentence beginning "For the purpose of this subsection * * *".

Subsec. (g). Act Aug. 5, 1954, § 5(e), repealed subsec. (g), which authorized Secretary of Treasury to make transfers from Federal unemployment account to account of any State in Unemployment Trust Fund.

Subsec. (h). Act Aug. 5, 1954, § 5(f), substituted a new clause (2) in the second sentence and repealed the third sentence: "Any amounts in the Federal unemployment account on April 1952, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury."

1950—Subsec. (h). Act Aug. 28, 1950, substituted "prior to July 1, 1951", for "prior to July 1, 1949", "on July 1, 1951, and ending on December 31, 1951" for "on July 1, 1949, and ending on December 31, 1949" in clause (2) of the second sentence, and "April 1, 1952" for "April 1, 1950" in the third sentence.

1947—Subsec. (h). Act Aug. 6, 1947, amended subsec. (h) generally, and, among other changes, changed the periods for which excess of tax collections over administrative expenditures could be appropriated to the unemployment account, limited authorized appropriations for the unemployment account to the excess collections for the period ending Dec. 31, 1949, provided for amounts in such account on Apr. 1, 1950, and any repayments to the account after such date be covered into the general fund of the Treasury, and provided for an additional deduction of $18,451,846 from the total amount of taxes collected prior to July 1, 1943.

1944—Subsec. (a). Act Oct. 3, 1944, inserted a comma and "or deposited pursuant to appropriations to the Federal unemployment account" immediately following "unemployment insurance account" in the second sentence.

Subsec. (e). Act Oct. 3, 1944, inserted a comma and "the Federal unemployment account" immediately following "a separate book account for each State agency".

Subsecs. (g), (h). Act Oct. 3, 1944, added subsecs. (g) and (h).

1938—Subsec. (a). Act June 25, 1938, § 10(e), inserted "or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account".

Subsec. (e). Act June 25, 1938, § 10(f), inserted "and the railroad unemployment insurance account".

Subsec. (f). Act June 25, 1938, § 10(g), added the second sentence.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (a), (e), and (f) by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indicated, see section 207 (c) of Pub. L. 85-927, set out as a note under section 351 of Title 45, Railroads.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 404 (c) of act Aug. 28, 1950, provided that the amendment of subsec. (h) shall be effective as of January 1, 1950.

TERMINATION DATE

Section 4 of act Aug. 6, 1947, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [former section 1651 note of Appendix to Title 50, War and National Defense] (terminating the provisions of such Act [former sections 1651-1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [former sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

TRANSFER OF FUNCTIONS

Functions of the Federal Security Administrator with respect to unemployment compensation and his functions under sections 1600-1611 of Title 26, Internal Revenue Code, were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

Section 1 of 1949 Reorg. Plan No. 2 also provided that the functions transferred by this section shall be performed by the Secretary of Labor or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

Social Security Board was abolished and its functions transferred to Federal Security Administrator by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

PAYMENTS TO STATES

Act Aug. 24, 1937, ch. 755, 50 Stat. 754, provided for payments to States of 90 per cent of proceeds of the unemployment tax collected prior to Jan. 31, 1938, where State had enacted an approved unemployment-compensation law during 1937.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 503, 1105 of this title; title 26 sections 3304, 3306; title 45 sections 360, 361, 363a, 366a.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 46-306 of the District of Columbia Code.

§ 1105. Extended Unemployment Compensation Account.

(a) Establishment.

There is hereby established in the Unemployment Trust Fund an extended unemployment compensation account. For the purposes provided for in section 1104(e) of this title, such account shall be maintained as a separate book account.

(b) Transfers to account.

(1) Except as provided by paragraph (3), the Secretary of the Treasury shall transfer (as of the close of July 1970, and each month thereafter), from the employment security administration account to the extended unemployment compensation account established by subsection (a) of this section, an amount determined by him to be equal, in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth, of the amount by which—

(A) transfers to the employment security administration account pursuant to section 1101(b)(2) of this title during such month, exceed

(B) payments during such month from the employment security administration account pursuant to section 1101(b)(3) and (d) of this title.

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.

(2) Whenever the Secretary of the Treasury determines pursuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year beginning after June 30, 1972, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the total amount of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to whichever of the following is the greater:

(A) $750,000,000, or

(B) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to one-eighth of 1 percent of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(3) The Secretary of the Treasury shall make no transfer pursuant to paragraph (1) as of the close of any month if he determines that the amount in the extended unemployment compensation account is equal to (or in excess of) the limitation provided in paragraph (2).

(c) Transfers to state accounts.

Amounts in the extended unemployment compensation account shall be available for transfer to the accounts of the States in the Unemployment Trust Fund as provided in section 204(e) of the Federal-State Extended Unemployment Compensation Act of 1970.

(d) Advances to account; repayment.

There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of the Federal-State Extended Unemployment Compensation Act of 1970. Amounts appropriated as repayable advances shall be repaid, without interest, by transfers from the extended unemployment compensation account to the general fund of the Treasury, at such times as the amount in the extended unemployment compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose. Any amount transferred as a repayment under this subsection shall be credited against, and shall operate to reduce, any balance of advances repayable under this subsection. (Aug. 14, 1935, ch. 531, title IX, § 905, as added Mar. 24, 1961, Pub. L. 87–6, § 13, 75 Stat. 14 and amended May 29, 1963, Pub. L. 88–31, § 2(c), 77 Stat. 51; Aug. 10, 1970, Pub. L. 91–373, title III, § 305 (a), 84 Stat. 716.)

REFERENCES IN TEXT

The Federal-State Extended Unemployment Compensation Act of 1970, referred to in text, is title II of Pub. L. 91–373, Aug. 10, 1970, 84 Stat. 708, which is set out as a note under section 3304 of Title 26, Internal Revenue Code.

AMENDMENTS

1970—Pub. L. 91–373 substituted provisions for an extended unemployment compensation account for provisions for a Federal extended compensation account.

1963—Subsec. (b). Pub. L. 88–31 inserted "(with respect to the calendar year 1963), or 5/13 (with respect to the calendar year 1964),".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1102, 1103 of this title.

§ 1106. Unemployment compensation research program.

(a) The Secretary of Labor shall—

(1) establish a continuing and comprehensive program of research to evaluate the unemployment compensation system. Such research shall include, but not be limited to, a program of factual studies covering the role of unemployment compensation under varying patterns of unemployment including those in seasonal industries, the relationship between the unemployment compensation and other social insurance programs, the effect of State eligibility and disqualification provisions, the personal characteristics, family situations, employment background and experience of claimants, with the results of such studies to be made public; and

(2) establish a program of research to develop information (which shall be made public) as to the effect and impact of extending coverage to excluded groups with first attention to agricultural labor.

(b) To assist in the establishment and provide for the continuation of the comprehensive research program relating to the unemployment compensation system, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, such sums, not to exceed $8,000,000, as may be necessary to carry out the purposes of this section. From the sums authorized to be appropriated by this subsection the Secretary may provide for the conduct of such research through grants or contracts. (Aug 14, 1935, ch. 531, title IX, § 906, as added Aug. 10, 1970, Pub. L. 91–373, title I, § 141, 84 Stat. 705.)

§ 1107. Personnel training.

(a) Creation of program.

In order to assist in increasing the effectiveness and efficiency of administration of the unemployment compensation program by increasing the number of adequately trained personnel, the Secretary of Labor shall—

(1) provide directly, through State agencies, or through contracts with institutions of higher education or other qualified agencies, organizations, or institutions, programs and courses designed to train individuals to prepare them, or improve their qualifications, for service in the administration of the unemployment compensation program, including claims determinations and adjudication, with such stipends and allowances as may be permitted under regulations of the Secretary;

(2) develop training materials for and provide technical assistance to the State agencies in the operation of their training programs;

(3) under such regulations as he may prescribe, award fellowships and traineeships to persons in the Federal-State employemnt security agencies, in order to prepare them or improve their qualifications for service in the administration of the unemployment compensation program.

(b) Repayment of costs.

The Secretary may, to the extent that he finds such action to be necessary, prescribe requirements to assure that any person receiving a fellowship, traineeship, stipend or allowance shall repay the costs thereof to the extent that such person fails to serve in the Federal-State employment security program for the period prescribed by the Secretary. The Secretary may relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that such repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the programs established by this section.

(c) Detail of federal and state employees.

The Secretary, with the concurrence of the State, may detail Federal employees to State unemployment compensation administration and the Secretary may concur in the detailing of State employees to the United States Department of Labor for temporary periods for training or for purposes of unemployment compensation administration, and the provisions of section 867 of Title 20 or any more general program of interchange enacted by a law amending,

supplementing, or replacing section 867 of Title 20 shall apply to any such assignment.

(d) Authorization of appropriations.

There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter such sums, not to exceed $5,000,000, as may be necessary to carry out the purposes of this section. (Aug. 14, 1935, ch. 531, title IX, § 907, as added Aug. 10, 1970, Pub. L. 91–373, title I, § 141, 84 Stat. 705.)

§ 1108. Federal Advisory Council.

(a) Establishment; membership.

The Secretary of Labor shall establish a Federal Advisory Council, of not to exceed 16 members including the chairman, for the purpose of reviewing the Federal-State program of unemployment compensation and making recommendations to him for improvement of the system.

(b) Appointment.

The Council shall be appointed by the Secretary without regard to the civil service laws and shall consist of men and women who shall be representatives of employers and employees in equal numbers, and the public.

(c) Executive Secretary; secretarial, clerical, and other assistance; data.

The Secretary may make available to the Council an Executive Secretary and secretarial, clerical, and other assistance, and such pertinent data prepared by the Department of Labor, as it may require to carry out its functions.

(d) Compensation.

Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of Title 5 for persons in government service employed intermittently.

(e) State advisory councils.

The Secretary shall encourage the organization of similar State advisory councils.

(f) Authorization of appropriations.

There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter such sums, not to exceed $100,000, as may be necessary to carry out the purposes of this section. (Aug. 14, 1935, ch. 531, title IX, § 908, as added Aug. 10, 1970, Pub. L. 91–373, title I, § 141, 84 Stat. 706.)

SUBCHAPTER X.—GRANTS TO STATES FOR AID TO THE BLIND

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 1301, 1306, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1320a, 1382, 1395v, 1396a, 1396b, 1396d of this title; title 31 section 665.

§ 1201. Appropriations.

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help such individuals attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the blind. (Aug. 14, 1935, ch. 531, title, X, § 1001, 49 Stat. 645; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(b), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 313(a), 70 Stat. 849; July 25, 1962, Pub. L. 87–543, title I, § 104(c)(3), 76 Stat. 186.)

AMENDMENTS

1962—Pub. L. 87–543 inserted "to furnish rehabilitation and other services" preceding "to help such individuals" and "or retain capability for" following "attain."

1956—Act Aug. 1, 1956, restated the purpose to include assistance to individuals to attain self-support or self-care.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "Social Security Board" by act Aug. 28, 1950.

Identical change was effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1202. State plans for aid to blind.

(a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness; (5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low-income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a

social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title or aid to families with dependent children under the State plan approved under section 602 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency shall disregard (A) the first $85 per month of earned income, plus one-half of earned income in excess of $85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, and (C) may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than $7.50 of any income; (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind; (10) provide that, in determining whether an individual is blind there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (13) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provisions of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

In the case of any State (other than Puerto Rico and the Virgin Islands) which did not have on January 1, 1949, a State plan for aid to the blind approved under this subchapter, the Secretary shall approve a plan of such State for aid to the blind for purposes of this subchapter, even though it does not meet the requirements of clause (8) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the blind; but payments under section 1203 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1203 of this title under a plan approved under this section without regard to the provisions of this sentence. (Aug. 14, 1935, ch. 531, title X, § 1002, 49 Stat. 645; Aug. 10, 1939, ch. 666, title VII, § 701, 53 Stat. 1397; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 4, § 341 (a–e), pt. 6, § 361 (c), (d), 64 Stat. 553, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 313(b), 70 Stat. 849; Sept. 13, 1960, Pub. L. 86–778, title VII, § 710, 74 Stat. 997; July 25, 1962, Pub. L. 87–543, title I, §§ 104(a)(3)(H), 106(a)(2), 136(a), 154, 76 Stat. 185, 188, 197, 206; Oct. 13, 1964, Pub. L. 88–650, § 5(a), 78 Stat. 1078; July 30, 1965, Pub. L. 89–97, title IV, § 403(c), 79 Stat. 418; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(3), 213(a)(2), 81 Stat. 895, 898.)

AMENDMENTS

1968—Subsec. (a)(5). Pub. L. 90–248, § 210(a)(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(8)(C). Pub. L. 90–248, § 213(a)(2), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(8). Pub. L. 89–97 added clause (C).

1964—Subsec. (a)(8). Pub. L. 88–650 permitted the State agency, for a period not in excess of thirty-six months to disregard such additional amounts of other income and resources.

1962—Subsec. (a)(7). Pub. L. 87–543, § 104(a)(3)(H), substituted "aid to families with dependent children" for "aid to dependent children."

Subsec. (a)(8). Pub. L. 87–543, §§106(a)(2), 154, inserted the words, ", as well as any expenses reasonably attributable to the earning of any such income", and amended the exception provision by eliminating "either (i) the first $50 per month of earned income, or" following "disregard", redesignating clause (ii) as subpar. (A) and adding subpar. (B).

Subsec. (b). Pub. L. 87–543, § 136(a), provided for approval of certain plans of States, without an approved plan on Jan. 1, 1949, meeting all but income and resources requirements, and payment of certain expenditures under such plans.

1960—Subsec. (a)(8). Pub. L. 86–778, § 710(b), eliminated provision that required the State agency to disregard, alternatively, the first $50 per month of earned income in considering claimant's income and resources in determining need.

Pub. L. 86–778, § 710(a), inserted provision that required the State agency to disregard, alternatively, the first $85 per month of earned income plus one-half of earned income in excess of $85 per month in considering claimant's income and resources in determining need.

1956—Subsec. (a) (B). Act Aug. 1, 1956, added cl. (13).

1950—Subsec. (a) (4). Act Aug. 28, 1950, § 341(a), substituted "provide for * * * with reasonable promptness" for "provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency".

Subsec. (a) (7). Act Aug. 28, 1950, § 341(b), added "or aid to * * * of this title".

Subsec. (a) (8). Act Aug. 28, 1950, § 341(c) (1), (d), added exception clause, and struck out "and" preceding subsec. (a) (9).

Subsec. (a) (9). Act Aug. 28, 1950, § 341(d), substituted a comma for a period at the end thereof.

Subsec. (a) (10)-(12). Act Aug. 28, 1950, § 341(d), added cls. (10)-(12).

1939—Subsec. (a) (5). Act Aug. 10, 1939, § 701(a), inserted after "methods of administration" the phrase "(including after January 1, 1940 * * * no authority with respect)", and "proper" before "and efficient operation of the plan".

Subsec. (a) (8), (9). Act Aug. 10, 1939, § 701(b), added cls. (8) and (9).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a) (5) by section 210(a) (3) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 403(c) of Pub. L. 89-97 provided in part that the amendment of subsec. (a) (8) of this section by said section was effective October 1, 1965.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) (8) of this section by section 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

Section 154 of Pub. L. 87-543 provided in part that the amendment of the exception provision of subsec. (a) (8) of this section by section 154 shall be effective July 1, 1963.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 710(a) of Pub. L. 86-778 provided that the amendment of subsec. (a) (8) of this section by section 710(a) of Pub. L. 86-778 shall be effective for the period beginning with the first day of the calendar quarter which begins after September 13, 1960, and ending with the close of June 30, 1962.

Section 710(b) of Pub. L. 86-778 provided in part that the amendment of subsec. (a) (8) of this section by section 710(b) of Pub. L. 86-778 shall be effective July 1, 1962.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 341(f) of act Aug. 28, 1950, provided in part that the amendment of subsection (a) (4) shall take effect July 1, 1951, and the amendments of subsecs. (a) (7) and (a) (9) and the addition of subsecs. (a) (10)—(12) shall become effective Oct. 1, 1950.

SUBSECTION (A) (8) AS EFFECTIVE JULY 1, 1952

Section 341 (c) (2) of act Aug. 28, 1950, provided that effective July 1, 1952, subsection (a) (8) is amended to read as follows: "(8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind; except that, in making such determination, the State agency shall disregard the first $50 per month of earned income;".

EFFECTIVE AND TERMINATION DATE OF 1950 AMENDMENT OF SUBSECTION (A) (8)

Section 341 (c) (1) of act Aug. 28, 1950, provided in part that the amendment of subsection (a) (8) shall be effective for the period beginning Oct. 1, 1950, and ending June 30, 1952.

SUBSEC. (A) (10) AS EFFECTIVE JULY 1, 1952

Section 341 (e) of act Aug. 28, 1950, provided that effective July 1, 1952 subsection (a) (10) is amended to read as follows: "(10) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;".

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, adding cls. (8), (9) to subsec. (a), was made effective July 1, 1941, by section 701(b) of act Aug. 10, 1939. Subsec. (a) (5) was also amended by section 701(a) of act Aug. 10, 1939, but without any special provision regarding its effective date.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a) (5) (A) of this section transferred to United States Civil Service Commission, see section 4728(a) (3) (D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (a) (7) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1203, 1204, 1206, 1315, 1352, 1382 of this title; title 25 sections 683, 686, 689.

§ 1202a. Repealed. Pub. L. 87-543, title I, § 136(b), July 25, 1962, 76 Stat. 197.

Section, act Aug. 28, 1950, ch. 809, title III, pt. 4, § 344(a), 64 Stat. 554, provided, in the case of any State without a plan for aid to the blind approved on Jan. 1, 1949, for approval of the plan of such a State conforming to all requirements except those relating to determination of need and consideration of resources but conditioned payments to the State meeting the excepted requirement.

EFFECTIVE AND TERMINATION DATES

Section 136(b) of Pub. L. 87-543 also repealed section 344(b) of act Aug. 28, 1950, as amended Sept. 1, 1954, ch. 1206, title III, § 302, 68 Stat. 1097; Apr. 25, 1957, Pub. L. 85-26, 71 Stat. 27; Aug. 28, 1958, Pub. L. 85-840, title V, § 509, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VII, § 706, 74 Stat. 995, which provided that this section should become effective Oct. 1, 1950 and terminate June 30, 1964.

§ 1203. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the

blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of Subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $31/37$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the blind for such month; and

(3) in the case of any State whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the blind, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided,* That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or

agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1202 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the blind furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c)(1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 1202 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the blind at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (4) of such subsection. (Aug. 14, 1935, ch. 531, title X, § 1003, 49 Stat. 646; Aug. 10, 1939, ch. 666, title VII, § 702, 53 Stat. 1397; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title V, § 503, 60 Stat. 992; June 14, 1948, ch. 468, § 3(c), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 4, § 342(a), pt. 6, § 361 (c), (d), 64 Stat. 553, 558; July 18, 1952, ch. 945, § 8(c), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303(a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 303, 313(c), 343, 70 Stat. 847, 849, 853; Aug. 28, 1958, Pub. L. 85–840, title V, § 503, 72 Stat. 1049; June 30, 1961, Pub. L. 87–64, title III, § 303(b), 75 Stat. 143; July 25, 1962, Pub. L. 87–543, title I, §§ 101 (a)(3), (b)(3), 132(b), 76 Stat. 176, 180, 195; July 30, 1965, Pub. L. 89–97, title I, § 122, title IV, § 401(d), 79 Stat. 353, 415; Jan. 2, 1968, Pub. L. 90–248, title II, § 212 (b), 81 Stat. 897.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3) (D), (E), is classified to sections 31–42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(3)(D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1968—Subsec. (a)(3)(D). Pub. L. 90–248 inserted ", except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89–97, §§ 122, 401(d), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and substituted "31/37" and "$37" for "29/35" and "$35" in subpar. (A) and "$75" for "$70" in subpar. (B), respectively.

Subsec. (a)(2). Pub. L. 89–97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

1962—Subsec. (a)(1). Pub. L. 87–543, § 132(b), substituted "29/35" and "$35" for "four-fifths" and "$31", respectively, in subpar. (A) and "$70" for "$66" in subpar. (B).

Subsec. (a)(2). Pub. L. 87–543, § 132(b), substituted "$37.50" for "$35.50."

Subsec. (a)(3). Pub. L. 87–543, § 101 (a)(3), (b)(3)(A), inserted in the opening provisions "whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section" followed "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-support or self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of aid to the blind and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of aid to the blind to help them attain self-support or self-care.

Subsec. (a)(4). Pub. L. 87–543, § 101(b)(3)(B), added subsec. (a)(4).

Subsec. (c). Pub. L. 87–543, § 101(b)(3)(C), added subsec. (c).

1961—Subsec. (a). Pub. L. 87–64 substituted "$31" for "$30" and "$66" for "$65" in cl. (1), and "$35.50" for "$35" in cl. (2).

1958—Subsec. (a). Pub. L. 85–840 increased the payments to the States to four-fifths of the first $30 of the average monthly payment per recipient including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of $65, increased the average monthly payment to Puerto Rico and the Virgin Islands from $30 to $35, excluded Guam from the provisions which authorize an average monthly payment of $65 and included Guam within the provisions which authorize an average monthly payment of $35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 303, substituted "during such quarter as aid to the blind in the form of money payments under the State plan" for "during such quarter as aid to the blind under the State plan" in cls. (1) and (2), "who received aid to the blind in the form of money payments for such month" for "who received aid to the blind for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 313(c), eliminated ", which shall be used exclusively as aid to the blind," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 343, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to the blind," following "the Virgin Islands, an amount" in cls. (1) and (2), substituted "$60" for "$55," "the product of $30" for "the product of $25", "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose".

1954—Subsec. (b)(1). Act Sept. 1, 1954, § 303(a), substituted "the State's proportionate share" for "one-half."

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, provided a new method of computation of the Federal portion of aid to the blind.

1948—Subsec. (a). Act June 14, 1948, substituted "$50" for "$45" and "$20" for "$15".

1946—Subsec. (a). Act Aug. 10, 1946, § 503(a), increased the maximum monthly State expenditure to which the Federal government will contribute from $40 to $45 and increased the Federal contribution for aid to the blind from one-half the State's expenditure to two-thirds such expenditure up to $15 monthly per individual plus one-half the State's expenditure over $15.

Subsec. (b). Act Aug. 10, 1946, § 503(b), substituted "the State's proportionate share" for "one-half" in par. (1).

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–248 effective Jan. 1, 1968, see section 212(e) of Pub. L. 90–248, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a)(1) of this section by section 401 of Pub. L. 89–97 applicable in the case of expenditures made after December 31, 1965, under a State plan approved under subchapters I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89–97, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) (1), (2) of this section by section 132(b) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87–543, set out as a note under section 303 of this title.

Amendment of subsec. (a)(3) of this section by section 101(a)(3) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be made after Aug. 31, 1962, and addition of subsecs. (a)(4) and (c) and amendment of subsec. (a)(3) of this section by section 101(b)(3) (A)—(C) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87–543, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 87–64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87–64, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment of this section by Pub. L. 85–840, see section 512 of Pub. L. 85–840, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) of this section by section 343 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by section 303 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952 and ending Sept. 30, 1954, see note set out under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 342 (b) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall take effect as of Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 (d) of act June 14, 1948, provided that the amendment of subsec. (a) of this section by section 3 (b) of act June 14, 1948, shall become effective on Oct. 1, 1948.

EFFECTIVE AND TERMINATION DATE OF 1946 AMENDMENT

Amendment of section by section 503 of act Aug. 10, 1946, effective only for the period beginning Oct. 1, 1946, and ending with the close of June 30, 1950, see paraphrase of section 504 of act Aug. 10, 1946, as amended by act Aug. 6, 1947, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 702 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in the Appendix to Title 5.

NONDUPLICATION OF PAYMENTS TO STATES, PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89–97, set out as a note under section 1396b of this title.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI of this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87–543, set out as a note under section 1383 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1202, 1315, 1317, 1318, 1319, 1396b of this title; title 25 section 639.

§ 1204. Operation of State plans.

In the case of any State plan for aid to the blind which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1202(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1202 of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title X, § 1004, 49 Stat. 646; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Jan. 2, 1968, Pub. L. 90–248, title II, § 245, 81 Stat. 918.)

AMENDMENTS

1968—Pub. L. 90–248 inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1205. Appropriation.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title X, § 1005, 49 Stat. 647, made available $30,000 for the fiscal year ending June 30, 1936, for expenses in administering sections 1201–1204 of this title.

§ 1206. "Aid to the blind" defined.

For the purposes of this subchapter, the term "aid to the blind" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State, whose State plan approved under section 1202 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the blind to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determinaton referred to in paragraph (1) of this subsection for any individual with respect to whom it is made.

(Aug. 14, 1935, ch. 531, title X, § 1006, 49 Stat. 647; Aug. 10, 1939, ch. 666, title VII, § 703, 53 Stat. 1398; Aug. 28, 1950, ch. 809, title III, pt. 4, § 343(a), 64 Stat. 554; July 25, 1962, Pub. L. 87–548, title I, § 156(c), 76 Stat. 207; July 30, 1965, Pub. L. 89–97, title II, § 221(b), title IV, § 402(c), 79 Stat. 358, 416.)

AMENDMENTS

1965—Pub. L. 89–97 deleted from the definition of "aid to the blind" the exclusion of payments to or medical care in behalf of any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and extended the definition of "aid to the blind" to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards determined by the Secretary) is interested in or concerned with the welfare of such needy individual and enumerated the five characteristics required of State plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs of the individual, special efforts to protect welfare, periodic review, and opportunity for fair hearing, respectively.

1962—Pub. L. 87–543 inserted "(if provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care."

1950—Act Aug. 28, 1950, redefined term "aid to the blind".

1939—Act Aug. 10, 1939, redefined term "aid to the blind" to include those individuals who are needy.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by section 221 of Pub. L. 89–97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89–97, set out as a note under section 303 of this title.

Amendment of section by Pub. L. 89–97, § 402(c), applicable in the case of expenditures made after December 31, 1965, under a State plan approved under subchapters I, X, XIV, or XVI of this chapter, see section 402(e) of Pub. L. 89–97, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by section 156(e) of Pub. L. 87–543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87–543, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 343 (b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) [to this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 1006 of the Social Security Act as so amended [clause (a) or (b) of this section] shall, in the case of any of such individuals who are not patients in a public institution, be effective July 1, 1952."

SUBCHAPTER XI.—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1301 of this title.

§ 1301. Definitions.

(a) When used in this chapter—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in subchapters I, IV, V, VII, X, XI, XIV, XVI, and XIX of this chapter includes the Virgin Islands and Guam.

(2) The term "United States" when used in a geographical sense means, except where otherwise provided, the States.

(3) The term "person" means an individual, a trust or estate, a partnership or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(7) The terms "physician" and "medical care" and "hospitalization" include osteopathic practitioners or the services of osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

(8) (A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, and Guam) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, and Guam) shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided,* That the Secretary shall promulgate such percentages as soon as possible after August 28, 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

(C) The term "United States" means (but only for purposes of subparagraphs (A) and (B) of this paragraph) the fifty States and the District of Columbia.

(D) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal percentage for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

(b) The terms "includes" and "including" when used in a definition contained in this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this chapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this chapter shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this chapter, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child. (Aug. 14, 1935, ch. 531, title XI, § 1101, 49 Stat. 647; Aug. 10, 1939, ch. 666, title VIII, § 801, 53 Stat. 1398; Aug. 10, 1946, ch. 951, title IV, § 401 (a), 60 Stat. 986; June 14, 1948, ch. 468, § 2 (a), 62 Stat. 438; Aug. 28, 1950, ch. 809, title IV, § 403 (a) (1), (2), (b), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 16, 1956, ch. 836, title III, § 333, 70 Stat. 852; Aug. 28, 1958, Pub. L. 85–840, title V, §§ 505, 506, 72 Stat. 1050, 1051; June 25, 1959, Pub. L. 86–70, § 32 (a), (d), 73 Stat. 149; July 12, 1960, Pub. L. 86–624, § 30 (a), (d), 74 Stat. 419, 420; Sept. 13, 1960, Pub. L. 86–778, title V, § 541, 74 Stat. 985; July 25, 1962, Pub. L. 87–543, title I, § 153, 76 Stat. 206; July 30, 1965, Pub. L. 89–97, title I, § 121(c)(1), 79 Stat. 352.)

AMENDMENTS

1965—Subsec. (a)(1). Pub. L. 89–97 included subchapter XIX of this chapter.

1962—Subsec. (a)(1). Pub. L. 87–543, § 153(a), included in the enumeration subchapters XI and XVI of this chapter.

Subsec. (a)(2). Pub. L. 87–543, § 153(b), deleted ", the District of Columbia, and the Commonwealth of Puerto Rico" following "the States,".

1960—Subsec. (a)(1). Pub. L. 86–778 substituted "The term 'State', except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico" for "The term 'State' includes Hawaii, and the District of Columbia", and "includes the Virgin Islands and Guam" for "includes Puerto Rico, the Virgin Islands, and Guam."

Pub. L. 86–624, § 30(d)(1), eliminated words "Hawaii, and" preceding "the District of Columbia."

Subsec. (a)(2). Pub. L. 86–778 substituted "means, except where otherwise provided, the States, the District of Columbia, and the Commonwealth of Puerto Rico" for "means the States, Hawaii, and the District of Columbia."

Pub. L. 86–624, § 30(d)(2), eliminated ", Hawaii," preceding "and the District of Columbia."

Subsec. (a)(8)(A). Pub. L. 86–624, § 30(a) (1), (2), substituted "per capita income of the United States" for "per capita income of the continental United States (including Alaska)", and eliminated provisions which prescribed the Federal percentage for Hawaii as 50 per centum.

Subsec. (a)(8)(B). Pub. L. 86–624, § 30(a)(1), substituted "United States" for "continental United States (including Alaska)".

Subsec. (a)(8)(C), (D). Pub. L. 86–624, § 30(a)(3), added pars. (C) and (D).

1959—Subsec. (a)(1). Pub. L. 86–70, § 32(d)(1), substituted "Hawaii and" for "Alaska, Hawaii, and."

Subsec. (a)(2). Pub. L. 86–70, § 32(d)(2), eliminated "Alaska," preceding "Hawaii."

Subsec. (a)(8). Pub. L. 86–70, § 32(a), substituted "(including Alaska)" for "(excluding Alaska)" in two

instances, and "50 per centum for Hawaii" for "50 per centum for Alaska and Hawaii."

1958—Subsec. (a)(1). Pub. L. 85-840, § 506, included Guam within the definition of "State" when used in subchapters I, IV, V, VII, X, and XIV of this chapter.

Subsec. (a)(8). Pub. L. 85-840, § 505, added par. (8).

1956—Subsec. (a)(1). Act Aug. 1, 1956, inserted reference to subchapter VII of this chapter.

1950—Subsec. (a)(1). Act Aug. 28, 1950, § 403(a)(1), redefined the term "State".

Subsec. (a)(6). Act Aug. 28, 1950, § 403(a)(2), defined "Administrator".

Subsec. (a)(7). Act Aug. 28, 1950, § 403(b), added par. (7).

1948—Subsec. (a)(6). Act June 14, 1948, provided for the application of the usual common-law rules in determining whether a person is an employee.

1946—Subsec. (a)(1). Act Aug. 10, 1946, omitted exception of section 45b of title 29 and added the Virgin Islands.

1939—Subsec. (a)(1). Act Aug. 10, 1939, redefined the term "State".

EFFECTIVE DATE OF 1965 AMENDMENT

Section 121(c)(1) of Pub. L. 89-97 provided in part that the amendment of subsec. (a)(1) by Pub. L. 89-97 shall be effective Jan. 1, 1966.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 541 of Pub. L. 86-778 provided in part that the amendment of subsec. (a) (1) and (2) of this section by Pub. L. 86-778 shall be effective on and after Jan. 1, 1961.

Amendment of subsec. (a) (1), (2) of this section by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as a note under section 645 of Title 20, Education.

Amendment of subsec. (a)(8)(A) by Pub. L. 86-624, § 30(a)(1), which substituted "United States" for "continental United States (including Alaska)", and amendment of subsec. (a)(8)(B), and subsecs. (a)(8) (C), (D), applicable in the case of promulgations or computations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after Aug. 21, 1959, see section 47(a) of Pub. L. 86-624, set out as a note under section 442 of Title 20, Education.

Section 47(b) of Pub. L. 86-624 provided that: "The amendments made by paragraph (2) of section 30(a) [which eliminated provisions in subsec. (a)(8)(A) prescribing the Federal percentage for Hawaii] shall be effective with the beginning of the calendar quarter in which this Act is enacted. The Secretary of Health, Education, and Welfare shall, as soon as possible after enactment of this Act [July 12, 1960], promulgate a Federal percentage for Hawaii determined in accordance with the provisions of subparagraph (B) of section 1101(a)(8) of the Social Security Act [subsec. (a)(8)(B) of this section], such promulgation to be effective for the period beginning with the beginning of the calendar quarter in which this Act is enacted and ending with the close of June 30, 1961."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsecs. (a)(1) and (a)(2) of this section by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70, set out as a note under section 15i of Title 20, Education.

Amendment of subsec. (a)(8) of this section by Pub. L. 86-70 applicable in the case of promulgations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska, see section 47(a) of Pub. L. 86-70, set out as a note under section 442 of Title 20, Education.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendments of subsec. (a) (1), (8) by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 403 (a) (3) of act Aug. 28, 1950, provided that: "The amendment made by paragraph (1) of this subsection [amendment of subsec. (a) (1) of this section] shall take effect October 1, 1950, and the amendment made by paragraph (2) of this subsection [amendment of subsec. (a) (6) of this section], insofar as it repeals the definition of 'employee', shall be effective only with respect to services performed after 1950."

Section 403 (b) of act Aug. 28, 1950, provided in part that subsection (a)(7) shall be effective as of October 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 2 (b) of act June 14, 1948, provided that: "The amendment made by subsection (a) [of section 2 of act June 14, 1948] shall have the same effect as if included in the Social Security Act [this chapter] on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any (1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act [June 14, 1948] or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act [June 14, 1948] in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act [June 14, 1948] wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935."

EFFECTIVE DATE OF 1946 AMENDMENT

Section 401 (a) of act Aug. 10, 1946, provided that the amendment to subsec. (a)(1) of this section shall be effective Jan. 1, 1947.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 801 of act Aug. 10, 1939.

REPEALS

The provisions of subsecs. (a) (1), (3), [former] (6), (c) of this section were incorporated into sections 1426 (d)—(f), 1427, 1607 (i)—(k), and 1608 of Title 26, I. R. C. 1939 by act Feb. 10, 1939, c. 2, 53 Stat. 1. Section 4 of the act of Feb. 10, 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue, were repealed. See enacting sections preceding section 1 of Title 26, I.R.C. 1939.

Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (Act Aug. 16, 1954, c. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. Said repealed sections are now covered by sections 3121 (d), (e), 3123, 3306 (i), (j), 3307, 7701 (a) (1) of Title 26, I. R. C. 1954.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the Office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

DEFINITION OF "SECRETARY"

Section 404 of Pub. L. 90-248, title IV, Jan. 2, 1968, 81 Stat. 933, provided that: "As used in the amendments made by this Act [Social Security Amendments of 1967, see Short Title note under section 302 of this title] (unless the context otherwise requires), the term 'Secretary' means the Secretary of Health, Education, and Welfare."

Section 110 of Pub. L. 89-97 provided that: "As used in this Act [Social Security Amendments of 1965, see Short Title note under section 302 of this title], and in the provisions of the Social Security Act amended by this Act [this chapter], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

CROSS REFERENCES

Aid to the blind, see section 1206 of this title.

Aid to the permanently and totally disabled, see section 1355 of this title.

Employment security administrative expenses, see section 1101 of this title.

Governor, see section 1324 of this title.

Unemployment administrative expenses, see section 1104(g) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 1383, 1395x, 1396d of this title.

§ 1301-1. Definition of Administrator.

CODIFICATION

Section, act Aug. 10, 1946, ch. 951, title II, § 202, 60 Stat. 981, which was enacted as a part of the Social Security Act Amendments of 1946 and not as a part of the Social Security Act which comprises this chapter, and which defined the term "Administrator" as used in certain sections of this chapter is now covered by section 1301 of this title.

§ 1301a. Bureau of Old-Age and Survivors' Insurance employees; travel expenses.

Employees of the Bureau of Old-Age and Survivors' Insurance when engaged in the investigation of claims or the furnishing or securing of information concerning claims or wage records under subchapter II of this chapter, may be reimbursed for official travel performed by them in privately owned automobiles within the corporate limits of their official stations at a rate not to exceed 3 cents per mile. (June 26, 1940, ch. 428, title II, 54 Stat. 588.)

CODIFICATION

Section was enacted as a part of the Deficiency Appropriation Act, 1940, and not as a part of the Social Security Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

SIMILAR PROVISIONS

Similar provisions were contained in act Aug. 9, 1939, ch. 633, title I, § 1, 53 Stat. 1304.

§ 1302. Rules and regulations.

The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this chapter, as may be necessary to the efficient administration of the functions with which each is charged under this chapter. (Aug. 14, 1935, ch. 531, title XI, § 1102, 49 Stat. 647; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title IV, § 403(c), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Provisions relating to the Secretary of Labor were inserted in view of 1950 Reorg. Plan No. 19, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

REPEALS

The provisions of this section were incorporated into sections 1429 and 1609 of Title 26, I. R. C. 1939, by act Feb. 10, 1939, ch. 2, 53 Stat. 1. Section 4 of the act of Feb. 10, 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954. See also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. The repealed sections are now covered by section 7805 (a), (c) of Title 26, I. R. C. 1954.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by act Aug. 28, 1950.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, formerly set out in the Appendix to Title 5.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of 1949 Reorg. Plan No. II, set out in the Appendix to Title 5.

"Federal Security Administrator" was substituted for "Secretary of Labor" and "Social Security Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1303. Separability of provisions.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 14, 1935, ch. 531, title XI, § 1103, 49 Stat. 648.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4016 of this title.

§ 1304. Reservation of right to amend or repeal.

The right to alter, amend, or repeal any provision of this chapter is reserved to the Congress. (Aug. 14, 1935, ch. 531, title XI, § 1104, 49 Stat. 648.)

§ 1305. Short title of chapter.

This chapter may be cited as the "Social Security Act". (Aug. 14, 1935, ch. 531, title XI, § 1105, 49 Stat. 648.)

§ 1306. Disclosure of information in possession of Department of Health, Education, and Welfare or Department of Labor; compliance with requests for information and services.

(a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or under subchapter E of chapter 1 or

subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939; or under regulations made under authority thereof, which have been transmitted to the Secretary of Health, Education, and Welfare or to the Secretary of Labor, as the case may be, by the Commissioner of Internal Revenue, or of any file, record, report or other paper, or any information, obtained at any time by the Secretary of Health, Education, and Welfare, or the Secretary of Labor, or by any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor in the course of discharging their respective duties under this chapter, and no disclosure of any such file, record, report or other paper, or information, obtained at any time by any person from the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, or from any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor shall be made except as the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, may by regulations prescribe. Any person who shall violate any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, to avoid undue interference with their respective functions under this chapter, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund for the unit or units of the Department of Health, Education, and Welfare or the Department of Labor, as the case may be, which furnished the information or services.

(c) (1) (A) Upon request (filed in accordance with paragraph (2) of this subsection) of any State or local agency participating in administration of the State plan approved under subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, or participating in the administration of any other State or local public assistance program, for the most recent address of any individual included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 405 of this title, the Secretary shall furnish such address, or the address of the most recent employer, or both, if such agency certifies that—

(i) an order has been issued by a court of competent jurisdiction against such individual for the support and maintenance of his child or children who are under the age of 16 in destitute or necessitous circumstances.

(ii) such child or children are applicants for or recipients of assistance available under such a plan or program,

(iii) such agency has attempted without success to secure such information from all other sources reasonably available to it, and

(iv) such information is requested (for its own use, or on the request and for the use of the court which issued the order) for the purpose of obtaining such support and maintenance.

(B) If a request for the most recent address of any individual so included is filed (in accordance with paragraph (2) of this subsection) by a court having jurisdiction to issue orders or entertain petitions against individuals for the support and maintenance of their children, the Secretary shall furnish such address, or the address of the individual's most recent employer, or both, for the use of the court (and for no other purpose) in issuing or determining whether to issue such an order against such individual or in determining (in the event such individual is not within the jurisdiction of the court) the court to which a petition for support and maintenance against such individual should be forwarded under any reciprocal arrangements with other States to obtain or improve court orders for support, if the court certifies that the information is requested for such use.

(2) A request under paragraph (1) of this subsection shall be filed in such manner and form as the Secretary may prescribe (and, in the case of a request under paragraph (1) (A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof).

(3) The penalties provided in the second sentence of subsection (a) of this section shall apply with respect to use of information provided under paragraph (1) of this subsection except for the purpose authorized by subparagraph (A) (iv) or (B) thereof.

(4) The Secretary, in such cases and to such extent as he may prescribe in accordance with regulations, may require payment for the cost of information provided under paragraph (1) of this subsection; and the provisions of the second sentence of subsection (b) of this section shall apply also with respect to payment under this paragraph. (Aug. 14, 1935, ch. 531, title XI, § 1106, as added Aug. 10, 1939, ch. 666, title VIII, § 802, 53 Stat. 1398, and amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title IV, § 403 (d), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11. 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 28, 1958, Pub. L. 85-340, title VII, § 701, 72 Stat. 1055;

July 30, 1965, Pub. L. 89-97, title I, § 108(c), title III, § 340, 79 Stat. 339, 411; Jan. 2, 1968, Pub. L. 90-248, title I, § 168, title II, § 241(c)(1), 81 Stat. 875, 917.)

REFERENCES IN TEXT

Title VIII of the Social Security Act, referred to in subsec. (a), was formerly classified to sections 1001—1011 of this title. For disposition of those sections, see Codification Note thereunder.

Subchapter E of chapter 1 and subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a), were references to provisions classified to sections 480—482 and 1400—1432, respectively of the Internal Revenue Code, 1939. Said provisions were repealed by section 7851 of Title 26, I. R. C. 1954. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26. For disposition of said repealed provisions in Title 26, I. R. C. 1954, see Distribution Tables.

CODIFICATION

Provisions relating to the Department of Labor and the Secretary of Labor were inserted in view of 1950 Reorg. Plan No. 19, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

AMENDMENTS

1968—Subsec. (c)(1). Pub. L. 90-248, § 241(c)(1), deleted "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XIX of this chapter,".

Subsec. (c)(1)(A), (B). Pub. L. 90-248, § 168(a), designated existing provisions as subpar. (A), redesignated former subpars. (A)—(D) as cls. (i)—(iv) thereof, and added subpar. (B).

Subsec. (c)(2). Pub. L. 90-248, § 168(b)(1), substituted "(and, in the case of a request under paragraph (1)(A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof)" for ", and shall be accompanied by a certified copy of the order referred to in paragraph (1)(A) of this subsection".

Subsec. (c)(3). Pub. L. 90-248, § 168(b)(2), substituted "authorized by subparagraph (A)(iv) or (B)" for "authorized by subparagraph (D)".

1965—Subsec. (b). Pub. L. 89-97, § 108(c), provided for use of special deposit in the Treasury (made up of payments for information and services furnished) to reimburse authorizations to make expenditures from the Federal Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund.

Subsec. (c). Pub. L. 89-97, § 340, added subsec. (c).

1958—Subsec. (b). Pub. L. 85-840 authorized compliance with requests for services if the agency, person, or organization making the request agrees to pay for the services.

1950—Act Aug. 28, 1950, designated existing provisions as subsec. (a), substituted "under subchapter E of chapter 1 or subchapter A of chapter 9 of Title 26" for "the Federal Insurance Contributions Act," reflected the transfer of functions from the Social Security Board to the Federal Security Administrator and the Federal Security Agency, and added subsection (b).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, set out in the Appendix to Title 5.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of 1949 Reorg. Plan No. II, set out in the Appendix to Title 5.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 1307. Penalty for fraud.

(a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this chapter, subchapter E of chapter 1 or subchapters A, C, or E of chapter 9 of Title 26, Internal Revenue Code of 1939, or of any rules or regulations issued thereunder, knowing such representations, to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Secretary that he is such individual, or the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or the duly authorized agent of such individual, or of the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both. (Aug. 14, 1935, ch. 531, title XI, § 1107, as added Aug. 10, 1939, ch. 666, title VIII, § 802, 53 Stat. 1398, and amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title IV, § 403 (e), (f), 64 Stat. 560; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

Subchapter E of chapter 1 and subchapter A, C, or E of chapter 9 of Title 26, Internal Revenue Code of 1939, referred to in subsec. (a), were references to provisions classified to sections 480—482, 1400—1432, 1600—1611, and 1630—1636, respectively of the Internal Revenue Code, 1939. Said provisions were repealed by section 7851 of Title 26, I. R. C. 1954. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26. For disposition of said repealed provisions in Title 26, I. R. C. 1954, see Distribution Tables.

AMENDMENTS

1950—Subsec. (a). Act Aug. 28, 1950, § 403(e), substituted "subchapter E of chapter 1 or subchapters A, C, or E of chapter 9 of Title 26," for "the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act."

Subsec. (b). Act Aug. 28, 1950, § 403(f), substituted "Administrator" for "Board" and "wife, husband, widow, widower, former wife divorced, child, or parent" for "wife, parent, or child" wherever appearing.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1308. Limitation on payments to Puerto Rico, the Virgin Islands, and Guam.

(a) The total amount certified by the Secretary of Health, Education, and Welfare under subchapter I, X, XIV, and XVI of this chapter, and under part A of subchapter IV of this chapter (exclusive of any amounts on account of services and items to which subsection (b) of this section applies)—

(1) for payment to Puerto Rico shall not exceed—

(A) $12,500,000 with respect to the fiscal year 1968,

(B) $15,000,000 with respect to the fiscal year 1969,

(C) $18,000,000 with respect to the fiscal year 1970,

(D) $21,000,000 with respect to the fiscal year 1971, or

(E) $24,000,000 with respect to the fiscal year 1972 and each fiscal year thereafter;

(2) for payment to the Virgin Islands shall not exceed—

(A) $425,000 with respect to the fiscal year 1968,

(B) $500,000 with respect to the fiscal year 1969,

(C) $600,000 with respect to the fiscal year 1970.

(D) $700,000 with respect to the fiscal year 1971, or

(E) $800,000 with respect to the fiscal year 1972 and each fiscal year thereafter; and

(3) for payment to Guam shall not exceed—

(A) $575,000 with respect to the fiscal year 1968,

(B) $690,000 with respect to the fiscal year 1969,

(C) $825,000 with respect to the fiscal year 1970,

(D) $960,000 with respect to the fiscal year 1971, or

(E) $1,100,000 with respect to the fiscal year 1972 and each fiscal year thereafter.

(b) The total amount certified by the Secretary under part A of subchapter IV of this chapter, on account of family planning services and services provided under section 602(a)(19) of this title with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $2,000,000,

(2) for payment to the Virgin Islands shall not exceed $65,000, and

(3) for payment to Guam shall not exceed $90,000.

(c) The total amount certified by the Secretary under subchapter XIX of this chapter with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $20,000,000,

(2) for payment to the Virgin Islands shall not exceed $650,000, and

(3) for payment to Guam shall not exceed $900,000.

(d) Notwithstanding the provisions of sections 702(a) and 712(a) of this title, and the provisions of sections 621, 703(1), and 704(1) of this title as amended by the Social Security Amendments of 1967, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment specified in such sections, allot such smaller amounts to Guam as he may deem appropriate. (Aug. 14, 1935, ch. 531, title XI, § 1108, as added Aug. 28, 1950, ch. 809, title III, pt. 6 § 361(g) 64 Stat. 558, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 351(c), 70 Stat. 855; Aug. 28, 1958, Pub. L. 85-840, title V, §§ 507, 508, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VI, § 602, 74 Stat. 992; July 25, 1962, Pub. L. 87-543, title I, § 151, 76 Stat. 206; July 30, 1965, Pub. L. 89-97, title II, § 208(a)(2), title IV, § 408(a), 79 Stat. 355, 422; Jan. 2, 1968, Pub. L. 90-248, title II, § 248(a)(1), 81 Stat. 918.)

AMENDMENTS

1968—Pub. L. 90-248 amended section generally and, among other changes, raised the present $9.8 million limit for Federal financial participation in the public assistance programs of Puerto Rico to $12.5 million for fiscal 1968 with further increases in succeeding fiscal years to a maximum of $24 million for fiscal 1972 and each fiscal year thereafter, increased the dollar maximums for the Virgin Islands from $330,000 to $800,000 for fiscal 1972 and thereafter and for Guam from $450,000 to $1.1 million for fiscal 1972 and thereafter, authorized payments for family planning services and services referred to in section 602(a)(19) of this title, with respect to any fiscal year, of not more than $2 million for Puerto Rico, $65,000 for the Virgin Islands, and $90,000 for Guam, imposed a maximum on Federal payments for the medical assistance program under subchapter XIX of this chapter, with respect to any fiscal year, of $20 million for Puerto Rico, $650,000 for the Virgin Islands, and $900,000 for Guam, and provided that notwithstanding sections 702(a) and 712(a) of this title and sections 621, 703(1), and 704(1) of this title, as amended by the Social Security Amendments of 1967, and until Congress otherwise provides, the Secretary shall, in lieu of the initial allotments specified in such sections, allot smaller amounts to Guam as he deems appropriate.

1965—Pub. L. 89-97 substituted "and 722(a)" for "722(a) and 727(a)" and struck out "(or, in the case of section 727(a) of this title" following "in lieu of the initial", and removed the litigation requiring that, with respect to any fiscal year, $625,000 of the $9,800,000 certified for payments to Puerto Rico, $18,750 of the $330,000 certified for payments to the Virgin Islands, and $25,000 of the $450,000 certified for payments to Guam, be used only for payments with respect to section 303(a)(2)(B) or 1383(a)(2)(B) of this title.

1962—Pub. L. 87-543 substituted "$9,800,000", "$330,000", "$450,000", and "initial (or, in the case of section 727(a) of this title, the minimum) allotment" for "$9,500,000", "$320,000", $430,000", and "$60,000, $60,000 $60,000, respectively," and inserted references to subchapter "XVI (other than section 1383(a)(3) thereof)" of this chapter, section 1383(a)(2) in three instances and section 727(a) following section 722(a).

1961—Pub. L. 87-64, title III, § 303(d), 75 Stat. 143, substituted "$9,500,000", "$320,000", and "$430,000" for "$9,425,000", "$318,750", and "$425,000", respectively. See Repeals note hereunder.

Pub. L. 87-31, § 6, May 8, 1961, 75 Stat. 78, increased the grant to Puerto Rico for fiscal year ending June 30, 1961, from $9,000,000 to $9,075,000 and for fiscal year ending June 30, 1962, to $9,425,000; the grants to Virgin Islands and Guam from $315,000 and $420,000 to $318,750 and $425,000, respectively; and payments under section 303(a)(2)(B) of this title to Puerto Rico, Virgin Islands and Guam from $500,000, $15,000 and $20,000 to $625,000, $18,750 and $25,000, respectively. See, also, Limitation on Payments note hereunder.

1960—Pub. L. 86-778 substituted "$9,000,000, of which $500,000 may be used only for payments certified with respect to section 303(a)(2)(B) of this title" for "$8,-500,000", "$315,000, of which $15,000 may be used only for payments certified in respect to section 303(a)(2)(B) of this title" for "$300,000", "$420,000, of which $20,000 may be used only for payments certified in respect to section 303(a)(2)(B) of this title" for "$400,000", and "subchapters I (other than section 303(a)(3) thereof)" for "subchapters I."

1958—Pub. L. 85-840, §§ 507, 508, amended section. Section 507 (a) substituted "$8,500,000" for "$5,312,500" and "$300,000" for "$200,000", and limited the total amount certified for payment to Guam with respect to any fiscal year to not more than $400,000. Section 507 (b) amended catchline to include Guam. Section 508 inserted provisions requiring the Secretary, in lieu of the allotments specified in sections 702 (a) (2), 712 (a) (2) and 722 (a) of this title, to allot such smaller amounts as he may deem appropriate to Guam, notwithstanding the provisions of such sections and until such time as the Congress may by appropriation or other law otherwise provide.

1956—Act Aug. 1, 1956, substituted "$5,312,500" for "$4,250,000", and "$200,000" for "$160,000".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 248(a)(2) of Pub. L. 90-248 provided that: "The amendment made by paragraph (1) [to this section] shall apply with respect to fiscal years beginning after June 30, 1967."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by Pub. L. 89-97 effective Jan. 1, 1966, see section 208(d) of Pub. L. 89-97, set out as a note under section 722 of this title.

Section 408(b) of Pub. L. 89-97 provided that: "The amendments made by subsection (a) [to this section] shall be effective in the case of Puerto Rico, the Virgin Islands, or Guam with respect to fiscal years beginning on or after the date on which its plan under title XIX of the Social Security Act [section 1396 et seq of this title] is approved."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 151 of Pub. L. 87-543 provided in part that the amendment of this section by Pub. L. 87-543 shall be effective for fiscal years ending after June 30, 1962.

EFFECTIVE DATE OF 1961 AMENDMENTS

Section 132(d) of Pub. L. 87-543 repealed section 303(d) of Pub. L. 87-64, title III, June 30, 1961, 75 Stat. 143, which had provided that the amendment of this section by section 303(d) of Pub. L. 87-64 shall be effective only for fiscal year ending June 30, 1962, and section 6 of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, which had provided that the amendment of this section by section 6(b) of Pub. L. 87-31 shall be effective for fiscal years ending after June 30, 1961. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 906 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective with respect to fiscal years ending after 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendments of this section made by sections 507 and 508 of Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years, see section 351 (d) of act Aug. 1, 1956, set out as a note under section 603 of this title.

REPEALS: EFFECTIVE DATE

Section 132(d) of Pub. L. 87-543 repealed section 6 of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, and section 303(d) of Pub. L. 87-64, title III, June 30, 1961, 75 Stat. 143, formerly credited to this section. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 906 of this title.

LIMITATION ON PAYMENTS: EFFECTIVE DATE

Section 132(d) of Pub. L. 87-543 repealed section 6(a) of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, which had limited payments to Puerto Rico not to exceed $9,075,000 for fiscal year ending June 30, 1961, $9,425,00 for fiscal year ending June 30, 1962; and $9,125,000 for fiscal years ending after June 30, 1962. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 906 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 1309. Amounts disregarded not to be taken into account in determining eligibility of other individuals.

Any amount which is disregarded (or set aside for future needs) in determining the eligibility of and amount of the aid or assistance for any individual under a State plan approved under subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, shall not be taken into consideration in determining the eligibility of and amount of aid or assistance for any other individual under a State plan approved under any other of such subchapters. (Aug. 14, 1935, ch. 531, title XI, § 1109, as added July 18, 1952, ch. 945, § 7, 66 Stat. 778, and amended July 25, 1962, Pub. L. 87-543, title I, § 141 (c), 76 Stat. 205; July 30, 1965, Pub. L. 89-97, title I, § 121(c)(2), 79 Stat. 352; Jan. 2, 1968, Pub. L. 90-248, title II, § 241(c)(2), 81 Stat. 917.)

AMENDMENTS

1968—Pub. L. 90-248 deleted "IV," following "I," and inserted ", or part A of subchapter IV of this chapter," after "XIX of this chapter".

1965—Pub. L. 89-97 substituted requirement that amounts disregarded be not taken into account in determining eligibility of other individuals, for former provisions which had provided that: "Notwithstanding the provisions of sections 302(a)(10)(A), 602(a)(7), 1202(a)(8), 1352(a)(8), and 1382(a)(14) of this title, a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter may until June 30, 1954, and thereafter shall provide that where earned income has been disregarded in determining the need of an individual receiving aid to the blind under a State plan approved under subchapter X of

this chapter, the earned income so disregarded (but not in excess of the amount specified in section 1202(a)(8) of this title) shall not be taken into consideration in determining the need of any other individual for assistance under a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter."

1962—Pub. L. 87-543 substituted reference to section 302(a)(10)(A) for 302(a)(7) and inserted references to section 1382(a)(14) and subchapter XVI.

§ 1310. Cooperative research or demonstration projects.

(a) There are authorized to be appropriated for the fiscal year ending June 30, 1957, $5,000,000 and for each fiscal year thereafter such sums as the Congress may determine for (1) making grants to States and public and other nonprofit organizations and agencies for paying part of the cost of research or demonstration projects such as those relating to the prevention and reduction of dependency, or which will aid in effecting coordination of planning between private and public welfare agencies or which will aid in effecting coordination of planning effectiveness of programs carried on or assisted under this chapter and programs related thereto, and (2) making contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research or demonstration projects relating to such matters.

(b) No contract or jointly financed cooperative arrangement shall be entered into, and no grant shall be made, under subsection (a) of this section, until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed projects as to soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed research or demonstrations, and their relationship to other similar research or demonstrations already completed or in process.

(c) Grants and payments under contracts or cooperative arrangements under subsection (a) of this section may be made either in advance or by way of reimbursement, as may be determined by the Secretary; and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section. (Aug. 14, 1935, ch. 531, title XI, § 1110, as added Aug. 1, 1956, ch. 836, title III, § 331, 70 Stat. 850, and amended Jan. 2, 1968, Pub. L. 90-248, title II, § 246, 81 Stat. 918.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248 deleted in clause (2) "nonprofit" preceding "organizations".

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1315 of this title.

§ 1311. Public assistance payments to legal representatives.

For purposes of subchapters I, X, XIV, and XVI of this chapter and part A of subchapter IV of this chapter, payments on behalf of an individual, made to another person who has been judicially appointed, under the law of the State in which such individual resides, as legal representative of such individual for the purpose of receiving and managing such payments (whether or not he is such individual's legal representative for other purposes), shall be regarded as money payments to such individual. (Aug. 14, 1935, ch. 531, title XI, § 1111, as added Aug. 28, 1958, Pub. L. 85-840, title V, § 511(a) 72 Stat. 1051, and amended July 25, 1962, Pub. L. 87-543, title I, § 141 (d), 76 Stat. 205; Jan. 2, 1968, Pub. L. 90-248, title II, § 241(c)(3), 81 Stat. 917.)

AMENDMENTS

1968—Pub. L. 90-248 deleted "IV," following "I," and inserted "and part A of subchapter IV of this chapter," after "XVI of this chapter,".

1962—Pub. L. 87-543 inserted reference to subchapter XVI.

EFFECTIVE DATE

Section 511 (b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [adding this section] shall be applicable in the case of payments to legal representatives by any State made after June 30, 1958; and to such payments by any State made after December 31, 1955, and prior to July 1, 1958, if certifications for payment to such State have been made by the Secretary of Health, Education, and Welfare with respect thereto, or such State has presented to the Secretary a claim (and such other data as the Secretary may require) with respect thereto, prior to July 1, 1959."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 605, 606, 1206, 1355, 1385 of this title.

§ 1312. Medical care guides and reports for public assistance and medical assistance.

In order to assist the States to extend the scope and content, and improve the quality, of medical care and medical services for which payments are made to or on behalf of needy and low-income individuals under this chapter and in order to promote better public understanding about medical care and medical assistance for needy and low-income individuals, the Secretary shall develop and revise from time to time guides or recommended standards as to the level, content, and quality of medical care and medical services for the use of the States in evaluating and improving their public assistance medical care programs and their programs of medical assistance; shall secure periodic reports from the States on items included in, and the quantity of, medical care and medical services for which expenditures under such programs are made; and shall from time to time publish data secured from these reports and other information necessary to carry out the purposes of this section. (Aug. 14, 1935, ch. 531, title XI, § 1112, as added Sept. 13, 1960, Pub. L. 86-778, title VII, § 705, 74 Stat. 995, and amended July 30, 1965, Pub. L. 89-97, title IV, § 408(c), 79 Stat. 422.)

AMENDMENTS

1965—Pub. L. 89-97 struck out "for the aged" following "medical assistance".

§ 1313. Assistance for United States citizens returned from foreign countries.

(a) Authorization; reimbursement; utilization of facilities of public or private agencies and organizations.

(1) The Secretary is authorized to provide temporary assistance to citizens of the United States and to dependents of citizens of the United States, if they (A) are identified by the Department of State as having returned, or been brought, from a foreign

country to the United States because of the destitution of the citizen of the United States or the illness of such citizen or any of his dependents or because of war, threat of war, invasion, or similar crisis, and (B) are without available resources.

(2) Except in such cases or classes of cases as are set forth in regulations of the Secretary, provision shall be made for reimbursement to the United States by the recipients of the temporary assistance to cover the cost thereof.

(3) The Secretary may provide assistance under paragraph (1) directly or through utilization of the services and facilities of appropriate public or private agencies and organizations, in accordance with agreements providing for payment, in advance or by way of reimbursement, as may be determined by the Secretary, of the cost thereof. Such cost shall be determined by such statistical, sampling, or other method as may be provided in the agreement.

(b) Plans and arrangements for assistance; consultations.

The Secretary is authorized to develop plans and make arrangements for provision of temporary assistance within the United States to individuals specified in subsection (a)(1) of this section. Such plans shall be developed and such arrangements shall be made after consultation with the Secretary of State, the Attorney General, and the Secretary of Defense. To the extent feasible, assistance provided under subsection (a) of this section shall be provided in accordance with the plans developed pursuant to this subsection, as modified from time to time by the Secretary.

(c) Definition of temporary assistance.

For purposes of this section, the term "temporary assistance" means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals (including guidance, counseling, and other welfare services) furnished to them within the United States upon their arrival in the United States and for such period after their arrival as may be provided in regulations of the Secretary.

(d) Termination date.

No temporary assistance may be provided under this section after June 30, 1971. (Aug. 14, 1935, ch. 531, title XI, § 1113, as added June 30, 1961, Pub. L. 87–64, title III, § 302, 75 Stat. 142, and amended July 25, 1962, Pub. L. 87–543, title I, § 133, 76 Stat. 196; June 30, 1964, Pub. L. 88–347, 78 Stat. 236; June 29, 1967, Pub. L. 90–36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90–248, title V, § 503, 81 Stat. 934; July 9, 1969, Pub. L. 91–41, § 4, 83 Stat. 45.)

AMENDMENTS

1969—Subsec. (d). Pub. L. 91–41 extended termination date from June 30, 1969, to June 30, 1971.

1968—Subsec. (d). Pub. L. 90–248 extended termination date from June 30, 1968, to June 30, 1969.

1967—Subsec. (d). Pub. L. 90–36 extended termination date from June 30, 1967, to June 30, 1968.

1964—Subsec. (d). Pub. L. 88–347 extended termination date from June 30, 1964 to June 30, 1967.

1962—Subsec. (d). Pub L. 87–543 extended termination date from June 30, 1962, to June 30, 1964.

§ 1314. Public advisory groups.

(a) Advisory Council on Public Welfare; appointment and functions of initial Council.

The Secretary shall, during 1964, appoint an Advisory Council on Public Walfare for the purpose of reviewing the administration of the public assistance and child welfare services programs for which funds are appropriated pursuant to this chapter and making recommendations for improvement of such administration, and reviewing the status of and making recommendations with respect to the public assistance programs for which funds are so appropriated, especially in relation to the old-age, survivors, and disability insurance program, with respect to the fiscal capacities of the States and the Federal Government, and with respect to any other matters bearing on the amount and proportion of the Federal and State shares in the public assistance and child welfare services programs.

(b) Membership and representation of interests on initial Council.

The Council shall be appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service and shall consist of twelve persons who shall, to the extent possible, be representatives of employers and employees in equal numbers, representatives of State or Federal agencies concerned with the administration or financing of the public assistance and child welfare services programs, representatives of nonprofit private organizations concerned with social welfare programs, other persons with special knowledge, experience, or qualifications with respect to such programs, and members of the public.

(c) Technical and other assistance for initial Council; availability of data.

The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(d) Termination of initial Council's existence on submission of report.

The Council shall make a report of its findings and recommendations (including recommendations for changes in the provisions of this chapter) to the Secretary, such report to be submitted not later than July 1, 1966, after which date such Council shall cease to exist.

(e) Succeeding Councils; appointment; functions; membership; representation of interests; assistance and data; termination.

The Secretary shall also from time to time thereafter appoint an Advisory Council on Public Welfare, with the same functions and constituted in the same manner as prescribed for the Advisory Council in the preceding subsections of this section. Each Council so appointed shall report its findings and recommendations, as prescribed in subsection (d) of this section, not later than July 1 of the second year after the year in which it is appointed, after which date such Council shall cease to exist.

(f) Advisory committees; functions; reports by Secretary.

The Secretary may also appoint, without regard to the provisions of Title 5 governing appointments in the competitive service, such advisory committees as he may deem advisable to advise and consult with him in carrying out any of his functions under this chapter. The Secretary shall report to the Congress annually on the number of such committees and on the membership and activities of each such committee.

(g) Compensation and travel expenses.

Members of the Council or of any advisory committee appointed under this section who are not regular full-time employees of the United States shall, while serving on business of the Council or any such committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $75 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(h) Exemption from conflict-of-interest laws of members of Council or advisory committees; exceptions.

(1) Any member of the Council or any advisory committee appointed under this chapter, who is not a regular full-time employee of the United States, is exempted with respect to such appointment, from the operation of sections 281, 283, and 1914 of Title 18 and section 99 of title 5, except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) shall not extend—

(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the employer of the appointee at the time of his appointment, or

(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

(Aug. 14, 1935, ch. 531, title XI, § 1114, as added July 25, 1962, Pub. L. 87–543, title I, § 121, 76 Stat. 190, and amended Jan. 2, 1968, Pub. L. 90–248, title IV, § 403(e), 81 Stat. 932.)

REFERENCES IN TEXT

Sections 281, 283, and 1914 of Title 18, referred to in subsec. (h)(1), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, and the former provisions are now covered by sections 203, 205, and 209 of Title 18, Crimes and Criminal Procedure, respectively.

Section 99 of Title 5, referred to in subsec. (h)(1), was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and the former provisions are now covered by section 207 of Title 18.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–248, § 403(e)(1), substituted "provisions of Title 5, governing appointments in the competitive service" for "civil-service laws".

Subsec. (f). Pub. L. 90–248, § 403(e)(2), substituted "provisions of Title 5, governing appointments in the competitive service" for "civil-service laws".

Subsec. (g). Pub. L. 90–248, § 403(e)(3), substituted reference to section 5703 for former section 73b–2 of Title 5.

EXEMPTIONS

Exemptions from sections 281, 283, and 1914 of Title 18 deemed exemptions from sections 203, 205, and 209 respectively, of Title 18, with certain exceptions, see section 2 of Pub. L. 87–849, set out in a note under sections 281–284 of Title 18, Crimes and Criminal Procedure.

§ 1315. Demonstration projects; waiver of State plan requirements; costs regarded as State plan expenditures; availability of appropriations.

In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, in a State or States—

(a) the Secretary may waive compliance with any of the requirements of section 302, 602, 1202, 1352, 1382, or 1396a of this title, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(b) costs of such project which would not otherwise be included as expenditures under section 303, 603, 1203, 1353, 1383, or 1396b of this title as the case may be, and which are not included as part of the costs of projects under section 1310 of this title, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such subchapter, or for administration of such plan or plans, as may be appropriate.

In addition, not to exceed $4,000,000 of the aggregate amount appropriated for payments to States under such subchapters for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such projects as is not covered by payments under such subchapters and is not included as part of the cost of projects for purposes of section 1310 of this title. (Aug. 14, 1935, ch. 531, title XI, § 1115, as added July 25, 1962, Pub. L. 87–543, title I, § 122, 76 Stat. 192, and amended July 30, 1965, Pub. L. 89–97, title I, § 121(c)(3), 79 Stat. 352; June 29, 1967, Pub. L. 90–36, § 2, 81 Stat. 94; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 241(c)(4), 247, 81 Stat. 917, 918.)

AMENDMENTS

1968—Pub. L. 90–248, § 241(c)(4), in the opening phrase deleted "IV," following "I," and inserted ", or part A of subchapter IV of this chapter," after "XIX of this chapter".

Pub. L. 90–248, § 247, substituted in second sentence "$4,000,000" for "$2,000,000" and "beginning after June 30, 1967" for "ending prior to July 1, 1968".

1967—Pub. L. 90–36 substituted "July 1, 1968" for "July 1, 1967".

1965—Pub. L. 89–97 included in the enumeration in the opening phrase, and clauses (a) and (b), subchapter XIX of this chapter, and sections 1396a and 1396b of this title, respectively.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 121(c)(3) of Pub. L. 89–97 provided in part that the amendment of this section by Pub. L., 89–97 shall be effective Jan. 1, 1966.

§ 1316. Administrative and judicial review of public assistance determinations.

(a) (1) Whenever a State plan is submitted to the Secretary by a State for approval under subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, he shall, not later than 90 days after the date the plan is submitted to him, make a determination as to whether it conforms to the requirements for approval under such subchapter. The 90-day period provided herein may be extended by written agreement of the Secretary and the affected State.

(2) Any State dissatisfied with a determination of the Secretary under paragraph (1) of this subsection with respect to any plan may, within 60 days after it has been notified of such determination, file a petition with the Secretary for reconsideration of the issue of whether such plan conforms to the requirements for approval under such subchapter. Within 30 days after receipt of such a petition, the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering such issue. Such hearing shall be held not less than 20 days nor more than 60 days after the date notice of such hearing is furnished to such State, unless the Secretary and such State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse his original determination within 60 days of the conclusion of the hearing.

(3) Any State which is dissatisfied with a final determination made by the Secretary on such a reconsideration or a final determination of the Secretary under sections 304, 604, 1204, 1354, 1384, or 1396c of this title may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which such State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of Title 28.

(4) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(5) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

(b) For the purposes of subsection (a) of this section, any amendment of a State plan approved under subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, may, at the option of the State, be treated as the submission of a new State plan.

(c) Action pursuant to an initial determination of the Secretary described in subsection (a) of this section shall not be stayed pending reconsideration, but in the event that the Secretary subsequently determines that his initial determination was incorrect he shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied.

(d) Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under subchapter I, X, XIV, XVI, or XIX of this chapter, or part A of subchapter IV of this chapter, shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance. (Aug. 14, 1935, ch. 531, title XI, § 1116, as added July 30, 1965, Pub. L. 89–97, title IV, § 404(a), 79 Stat. 419, and amended Jan. 2, 1968, Pub. L. 90–248, title II, § 241(c)(5), 81 Stat. 917.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–248, § 241(c)(5)(A), deleted "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XIX of this chapter,".

Subsecs. (b), (d). Pub. L. 90–248, § 241(c)(5)(B), deleted "IV," following "I," and inserted ", or part A of subchapter IV of this chapter," after "XIX of this chapter".

EFFECTIVE DATE

Section 404(b) of Pub. L. 89–97 provided that: "The amendment made by subsection (a) [adding this section] shall apply only with respect to determinations made after December 31, 1965."

§ 1317. Repealed. Pub. L. 90–248, title II, § 221(d), Jan. 2, 1968, 81 Stat. 900.

Section, act Aug. 14, 1935, ch. 531, title XI, § 1117, as added July 30, 1965, Pub. L. 89–97, title IV, § 405, 79 Stat. 420, and amended Jan. 2, 1968, Pub. L. 90–248, title II, §§ 221(a)—(c), 241(c)(6), 81 Stat. 899, 917, related to maintenance of State public assistance expenditures.

EFFECTIVE DATE OF REPEAL

Section 221(d) of Pub. L. 90–248 repealed provisions effective July 1, 1968.

§ 1318. Alternative Federal payment with respect to public assistance expenditures.

In the case of any State which has in effect a plan approved under subchapter XIX of this chapter for any calendar quarter, the total of the payments to which such State is entitled for such quarter, and for each succeeding quarter in the same fiscal year (which for purposes of this section means the 4 calendar quarters ending with June 30), under paragraphs (1) and (2) of sections 303(a), 603(a), 1203 (a), 1353(a), and 1383(a) of this title shall, at the option of the State, be determined by application of the Federal medical assistance percentage (as defined in section 1396d of this title), instead of the percentages provided under each such section, to the expenditures under its State plans approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter, which would be included in determining the amounts of the Federal payments to which such State is entitled under such sections, but without regard to any maximum on the dollar amounts per recipient which may be counted under such sections. (Aug. 14, 1935, ch. 531, title XI, § 1118, as added July 30, 1965, Pub. L. 89–97, title IV, § 411, 79 Stat. 423, and amended Jan. 2, 1968, Pub. L. 90–248, title II, § 241(c)(7), 81 Stat. 917.)

AMENDMENTS

1968—Pub. L. 90–248 deleted "IV," after "I," and inserted "and part A of subchapter IV of this chapter," after "XVI of this chapter."

§ 1319. Federal participation in payments for repairs to home owned by recipient of aid or assistance.

In the case of an expenditure for repairing the home owned by an individual who is receiving aid or assistance, other than medical assistance to the aged, under a State plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter if—

(1) the State agency or local agency administering the plan approved under such subchapter has made a finding (prior to making such expenditure) that (A) such home is so defective that continued occupancy is unwarranted, (B) unless repairs are made to such home, rental quarters will be necessary for such individual, and (C) the cost of rental quarters to take care of the needs of such individual (including his spouse living with him in such home and any other individual whose needs were taken into account in determining the need of such individual) would exceed (over such time as the Secretary may specify) the cost of repairs needed to make such home habitable together with other costs attributable to continued occupancy of such home, and

(2) no such expenditures were made for repairing such home pursuant to any prior finding under this section,

the amount paid to any such State for any quarter under section 303(a), 603(a), 1203(a), 1353(a), or 1383(a) of this title shall be increased by 50 per centum of such expenditures, except that the excess above $500 expended with respect to any one home shall not be included in determining such expenditures. (Aug. 14, 1935, ch. 531, title XI, § 1119, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 209(a), 81 Stat. 894.)

EFFECTIVE DATE

Section 209(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [enacting this section] shall apply with respect to expenditures made after December 31, 1967."

§ 1320. Approval of certain projects.

(a) No payment shall be made under this chapter with respect to any experimental, pilot, demonstration, or other project all or any part of which is wholly financed with Federal funds made available under this chapter (without any State, local, or other non-Federal financial participation) unless such project shall have been personally approved by the Secretary or Under Secretary of Health, Education, and Welfare.

(b) As soon as possible after the approval of any project under subsection (a) of this section, the Secretary shall submit to the Congress a description of such project including a statement of its purpose, probable cost, and expected duration. (Aug. 14, 1935, ch. 531, title XI, § 1120, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 249, 81 Stat. 919.)

§ 1320a. Assistance in the form of institutional services in intermediate care facilities.

(a) Modification of certain plans to include such benefit.

Any State which has in effect a plan for old-age assistance, approved under subchapter I of this chapter, a plan for aid to the blind, approved under subchapter X of this chapter, a plan for aid to the permanently and totally disabled, approved under subchapter XIV of this chapter, or a plan for aid to the aged, blind, or disabled, approved under subchapter XVI of this chapter, may, on or after January 1, 1968, modify such plan to include therein benefits in the form of institutional services in intermediate care facilities for indivduals who are entitled (or would, if not receiving institutional services in intermediate care facilities, be entitled) to assistance, under such plan, in the form of money payments.

(b) Eligible individuals.

Any modification pursuant to subsection (a) of this section shall provide that benefits in the form of institutional services in intermediate care facilities will be provided only to individuals who—

(1) are entitled (or would, if not receiving institutional services in intermediate care facilities, be entitled) to receive aid or assistance, under the State plan, in the form of money payments;

(2) because of their physical or mental condition (or both), require living accommodations and care which, as a practical matter, can be made available to them only through institutional facilities; and

(3) do not have such an illness, disease, injury, or other condition as to require the degree of care and treatment which a hospital or skilled nursing home (as that term is employed in subchapter XIX of this chapter) is designed to provide.

(c) Payments; Federal medical assistance percentage.

Payments to any State which modifies its approved State plan (referred to in subsection (a) of this section) to provide, to the recipients of aid or assistance thereunder, benefits in the form of institutional services in intermediate care facilities shall be made in the same manner and from the same appropriation as payments made with respect to expenditures under the State plan so modified, except that, with respect to expenditures made by the State in paying the cost of benefits in the form of institutional services in intermediate care facilities for any quarter, the Secretary shall, if the State so elects, pay to each State an amount equal to the Federal medical assistance percentage (as defined in section 1396d(b) of this title).

(d) Conditions, limitations, rights, and obligations applicable to modified plans.

Except when inconsistent with the purposes of this section or contrary to any provision of this section, any modification, pursuant to this section, of an approved State plan shall be subject to the same conditions, limitations, rights, and obligations as obtain with respect to such approved State plan.

(e) "Intermediate care facility" defined.

For purposes of this section, the term "intermediate care facility" means an institution or distinct part thereof which (1) is licensed, under

State law, to provide the patients or residents thereof, on a regular basis, the range or level of care and services which is suitable to the needs of individuals described in subsection (b)(2) and (3) of this section, but which does not provide the degree of care required to be provided by a skilled nursing home furnishing services under a State plan approved under subchapter XIX of this chapter, and (2) meets such standards of safety and sanitation as are applicable to nursing homes under State law; except that in no case shall such term include an institution which does not regularly provide a level of care and service beyond room and board. The term "intermediate care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the State. (Aug. 14, 1935, ch. 531, title XI, § 1121, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 250(a), 81 Stat. 920.)

SUBCHAPTER XII.—ADVANCES TO STATE UNEMPLOYMENT FUNDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 26 section 3302.

§ 1321. Eligibility requirements for transfer of funds; reimbursement by State; application; certification; limitation.

(a)(1) Advances shall be made to the States from the Federal unemployment account in the Unemployment Trust Fund as provided in this section, and shall be repayable, without interest, in the manner provided in sections 1101(d)(1), 1103(b)(2), and 1322 of this title. An advance to a State for the payment of compensation in any month may be made if—

(A) the Governor of the State applies therefor no earlier than the first day of the preceding month, and

(B) he furnishes to the Secretary of Labor his estimate of the amount of an advance which will be required by the State for the payment of compensation in such month.

(2) In the case of any application for an advance under this section to any State for any month, the Secretary of Labor shall—

(A) determine the amount (if any) which he finds will be required by such State for the payment of compensation in such month, and

(B) certify to the Secretary of the Treasury the amount (not greater than the amount estimated by the Governor of the State) determined under subparagraph (A).

The aggregate of the amounts certified by the Secretary of Labor with respect to any month shall not exceed the amount which the Secretary of the Treasury reports to the Secretary of Labor is available in the Federal unemployment account for advances with respect to such month.

(3) For purposes of this subsection—

(A) an application for an advance shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this subchapter,

(B) the amount required by any State for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such month, and

(C) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of the State in the Unemployment Trust Fund the amount certified under subsection (a) of this section by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of the transfer which is not restricted as to use pursuant to section 1103(b)(1) of this title. (Aug. 14, 1935, ch. 531, title XII, § 1201, as added Oct. 3, 1944, ch. 480, title IV, § 402, 58 Stat. 790, and amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 6, 1947, ch. 510, § 5(b), 61 Stat. 794; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 404(a), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 3, 68 Stat. 671; Sept. 13, 1960, Pub. L. 86–778, title V, § 522(a), 74 Stat. 978.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86–778 substituted provisions relating to advances on a monthly basis upon application of the Governor and the furnishing of an estimate of amount of requisite advance and determination and certification by the Secretary of Labor of the requisite amount limited to a sum which is available in the Federal unemployment account for advances for the month for former provisions relating to advances on a quarterly basis upon application of the Governor for a specified amount not to exceed the highest total compensation paid out under the unemployment compensation law of the State during any one of the four calendar quarters preceding the quarter in which the application is made, where the balance in the unemployment fund of the State in the Unemployment Trust Fund at the close of Sept. 30, 1953, or the last day in any ensuing calendar quarter is less than the total compensation paid out under the unemployment compensation law of the State during the twelve-month period at the close of such day; incorporated former provisions of subsec. (b), relating to repayment of advances, in par. (1), adding thereto provision for repayment under section 1103(b)(2) of this title, and provisions formerly designated as clauses (A) and (B) in par. (3) (A) and (C); and added par. (3)(B).

Subsec. (b). Pub. L. 86–778 eliminated provision for repayment of advances which is now incorporated in subsec. (a)(1) in the reference to repayment under sections 1101(d)(1) and 1322 of this title.

1954—Act Aug. 5, 1954, amended section generally to provide that: (1) the first condition of eligibility for an advance is that the balance in the State unemployment fund at the close of a calendar quarter be less than the total of cash payments made by the State to individuals during the 12-month period which ends with such quarter; (2) the Governor of the State must apply for an advance during the quarter following the quarter specified in paragraph (1) of this section; and (3) the total amount certified for any one application may not

exceed the amount paid out by the State for cash benefits in that particular quarter.

1950—Subsec. (a). Act Aug. 28, 1950, substituted "January 1, 1952" for "January 1, 1950".

1947—Subsec. (a). Act Aug. 6, 1947, changed "June 30, 1945" to "June 30, 1947", and "July 1, 1947" to "January 1, 1950".

EFFECTIVE DATE OF 1950 AMENDMENT

Section 404 (c) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall be effective Jan. 1, 1950.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Labor and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (section 551 et seq. and section 701 et seq. of Title 5, Government Organization and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies and employees, by 1950 Reorg. Plan No. 6, §§ 1, 2, 15 F. R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2, § 1, set out in the Appendix to Title 5.

Section 1 of 1949 Reorg. Plan No. 2 also provides that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor, as he shall designate.

"Federal Security Administrator" was substituted for "Social Security Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

TERMINATION DATE

Section 4 of act Aug. 6, 1947, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [former section 1651 note of Appendix to Title 50] (terminating the provisions of such Act [former sections 1651—1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [former sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

APPLICATIONS FOR TRANSFER OF FUNDS UNDER FORMER PROVISIONS OF SECTION 1321(a); LIMITATIONS

Section 522(b) of Pub. L. 86-778 provided that:

"(1) No amount shall be transferred on or after the date of the enactment of this Act [Sept. 13, 1960] from the Federal unemployment account to the account of any State in the Unemployment Trust Fund pursuant to any application made under section 1201(a) of the Social Security Act [subsec. (a) of this section] as in effect before such date; except that, if—

"(A) some but not all of an amount certified by the Secretary of Labor to the Secretary of the Treasury for transfer to the account of any State was transferred to such account before such date, and

"(B) the Governor of such State, after the date of the enactment of this Act [Sept. 13, 1960], requests the Secretary of the Treasury to transfer all or any part of the remainder to such account,

the Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of such State in the Unemployment Trust Fund the amount so requested or (if smaller) the amount available in the Federal unemployment account at the time of the transfer. No such amount shall be transferred under this paragraph after the one-year period beginning on the date of the enactment of this Act [Sept. 13, 1960].

"(2) For purposes of section 3302(c) of the Federal Unemployment Tax Act [section 3302(c) of Title 26] and titles IX and XII of the Social Security Act [subchapter IX and XII of this chapter], if any amount is transferred pursuant to paragraph (1) to the unemployment account of any State, such amount shall be treated as an advance made before the date of the enactment of this Act [Sept. 13, 1960]."

ADVANCES TO ALASKA

Act June 1, 1955, c. 118, 69 Stat. 81, authorized the Governor of Alaska to obtain from the Federal Unemployment Fund such advances as the Territory of Alaska might qualify for and as might be necessary to obtain for the payment of unemployment compensation benefits to claimants entitled thereto under the Alaska employment security law and provided for the reimbursement of the general fund of the Territory of Alaska from which advances have been made for the payment of unemployment compensation benefits from advances made through the Governor of Alaska from the Federal Unemployment Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1104, 1322 of this title.

§ 1322. Repayment by State; certification; transfer.

The Governor of any State may at any time request that funds be transferred from the account of such State to the Federal unemployment account in repayment of part or all of that balance of advances, made to such State under section 1321 of this title, specified in the request. The Secretary of Labor shall certify to the Secretary of the Treasury the amount and balance specified in the request; and the Secretary of the Treasury shall promptly transfer such amount in reduction of such balance. (Aug. 14, 1935, ch. 531, title XII, § 1202, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979.)

AMENDMENTS

1960—Pub. L. 86-778 designated provisions constituting subsec. (a) as entire section, substituted "that balance of advances, made to such State under section 1321 of this title, specified in the request" for "any remaining balance of advances made to such State under section 1321 of this title" and added "in reduction of such balance" and omitted subsecs. (b) and (c) pertaining to appropriations and repayable advances which are now incorporated in sections 1101(d)(1) and 1323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1321 of this title.

§ 1323. Repayable advances to Federal Unemployment Account.

There are authorized to be appropriated to the Federal unemployment account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of this subchapter. Whenever, after the application of sections 1101(f)(3) and 1102(a) of this title with respect to the excess in the employment security administration account as of the close of any fiscal year, there remains any portion of such excess, so much of such remainder as does not exceed the balance of advances made pursuant to this section shall be transferred to the general fund of the Treasury and shall be credited against, and shall operate to reduce, such balance of advances. (Aug. 14, 1935, ch. 531, title XII, § 1203, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979; Aug. 10, 1970, Pub. L. 91-373, title III, § 304(c), 84 Stat. 716.)

PRIOR PROVISIONS

Provisions similar to those comprising the first sentence of this section were contained in former section 1322(c), act Aug. 14, 1935, ch. 531, title XII, § 1202(c), as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, prior to amendment by Pub. L. 86-778.

AMENDMENTS

1970—Pub. L. 91–373 inserted reference to section 1102(a) of this title.

1960—Pub. L. 86–778 substituted provisions relating to repayable advances to the Federal unemployment account for former provision defining "Governor" and now incorporated in section 1324 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103, 1104 of this title.

§ 1324. Definition.

When used in this subchapter, the term "Governor" includes the Commissioner of the District of Columbia. (Aug. 14, 1935, ch. 531, title XII, § 1204, as added Sept. 13, 1960, Pub. L. 86–778, title V, § 522(a), 74 Stat. 979.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1323, act Aug. 14, 1935, ch. 531, title XII, § 1203, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, prior to amendment by Pub. L. 86–778.

TRANSFER OF FUNCTIONS

The functions of the Board of Commissioners of the District of Columbia, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, were transferred to the Commissioner of the District of Columbia by section 401 of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the Appendix to Title 5, Government Organization and Employees. See, also, effective date note under such plan.

SUBCHAPTER XIII.—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

§§ 1331 to 1336. Omitted.

CODIFICATION

Sections 1331 to 1336 expired upon the termination of the reconversion period beginning with fifth Sunday after Aug. 10, 1946, and ending June 30, 1950, for claiming benefits for Federal maritime service performed prior to July 1, 1949, in accordance with definitions contained in former section 1332 of this title.

Section 1331, act Aug. 14, 1935, ch. 531, title XIII, § 1301, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065, provided for the administration of this chapter by the Secretary of Labor.

Section 1332, act Aug. 14, 1935, ch. 531, title XIII, § 1302, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended July 16, 1949, ch. 342, §§ 1—3, 63 Stat. 445, defined the terms "reconversion period", "compensation", "Federal maritime service", and "Federal maritime wages".

Sections 1333—1336, act Aug. 14, 1935, ch. 531, title XIII, §§ 1303—1306, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065, related to compensation for seamen, agreements with States, payments in absence of agreement, wage information, determination of wages; administration, review of determinations, reports; payments to States, use and return of funds, certifying and disbursing officers; and penalties, respectively.

SUBCHAPTER XIV.—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 1301, 1306, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1320a, 1382, 1395v, 1396a, 1396b, 1396d of this title.

§ 1351. Appropriations.

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals eighteen years of age and older who are permanently and totally disabled and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help such individuals attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid to the permanently and totally disabled. (Aug. 14, 1935, ch. 531, title XIV, § 1401, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 314(a), 70 Stat. 849; July 25, 1962, Pub. L. 87–543, title I, § 104(c)(4), 76 Stat. 186.)

AMENDMENTS

1962—Pub. L. 87–543 inserted "to furnish rehabilitation and other services" preceding "to help such individuals" and "or retain capability for" following "attain."

1956—Act Aug. 1, 1956, restated purpose to include assistance to individuals to attain self-support of self-care.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 1352. State plans for aid to the permanently and totally disabled.

(a) A State plan for aid to the permanently and totally disabled must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness; (5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers

in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title, aid to families with dependent children under the State plan approved under section 602 of this title, or aid to the blind under the State plan approved under section 1202 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of such income; except that, in making such determination, (A) the State agency may disregard not more than $7.50 of any income, (B) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (C) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation; (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the permanently and totally disabled; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (12) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid to the permanently and totally disabled and has resided therein continuously for one year immediately preceding the application;

(2) Any citizenship requirement which excludes any citizen of the United States.

(Aug. 14, 1935, ch. 531, title XIV, § 1402, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 314(b), 70 Stat. 850; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(I), 106(a)(3), 76 Stat. 185, 188; July 30, 1965, Pub. L. 89-97, title IV, § 403(d) 79 Stat. 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(4), 213(a)(3), 81 Stat. 896, 898.)

AMENDMENTS

1968—Subsec. (a)(5). Pub. L. 90-248, § 210(a)(4), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(8)(A). Pub. L. 90-248 § 213(a)(3), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(8). Pub. L. 89-97 inserted exception prohibiting disregard by State in making its determination of need of more than $5 of any income or of more than the first $20 of the first $80 per month of additional income which is earned and allowing disregard, for a period not in excess of 36 months, of such additional amounts of other income and resources as may be necessary to the fulfillment of approved plan for achieving self-support but only as to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation.

1962—Subsec. (a)(7). Pub. L. 87-543, § 104(a)(3)(I), substituted "aid to families with dependent children" for "aid to dependent children."

Subsec. (a)(8). Pub. L. 87-543, § 106(a)(3), inserted the words ", as well as any expenses reasonably attributable to the earning of any such income."

1956—Subsec. (a). Act Aug. 1, 1956, added clause (12).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(5) by section 210(a)(4) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this sub-chapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 403(d) of Pub. L. 89-97 provided that the amendment of subsec. (a)(8) of this section by said section was effective October 1, 1965.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a)(8) of this section by section 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education.

and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of subsec. (a)(7) of this section by section 104(a) of Pub. L. 87–543, see section 104(b) of Pub. L. 87–543, set out as a note under section 601 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1353, 1354, 1355 of this title.

§ 1353. Payments to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of receipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month; and

(3) in the case of any State whose State plan approved under section 1352 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the permanently and totally disabled, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided,* That no funds authorized under this subchapter shall be available for services defined

as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1352 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of subsection (a) of this section, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of permanently and totally disabled individuals in the State, and (C) such other investigation as the administrator may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this subsection for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the permanently and totally disabled furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c)(1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 1352 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the permanently and totally disabled at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer

be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made subject to the other provisions of this subchapter, under paragraph (4) of such subsection. (Aug. 14, 1935, ch. 531, title XIV, § 1403, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended July 18, 1952, ch. 945, § 8(d), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, §§ 304, 314(c), 344, 70 Stat. 847, 850, 854; Aug. 28, 1958, Pub. L. 85-840, title V, § 504, 72 Stat. 1049; June 30, 1961, Pub. L. 87-64, title III, § 303(c), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101 (a)(4), (b)(4), 132(c), 76 Stat. 178, 181, 195; July 30, 1965, Pub. L. 89-97, title I, § 122, title IV, § 401(e), 79 Stat. 353, 415; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(c), 81 Stat. 897.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3) (D), (E), is classified to sections 31—42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(3)(D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1968—Subsec. (a)(3)(D). Pub. L. 90-248 inserted, "except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(e), inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and substituted "31/37" and "$37" for "29/35" and "$35" in subpar. (A) and "$75" for "$70" in subpar. (B), respectively.

Subsec. (a)(2). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

1962—Subsec. (a)(1). Pub. L. 87-543, § 132(c), substituted "29/35" and "$35" for "four-fifths" and "$31", respectively, in subpar. (A) and "$70" for "$66" in subpar. (B).

Subsec. (a)(2). Pub. L. 87-543, § 132(c), substituted "$37.50" for "$35.50."

Subsec. (a)(3). Pub. L. 87-543, § 101 (a)(4), (b)(4)(A), inserted in the opening provisions "whose State plan approved under section 1352 of this title meets the requirements of subsection (c)(1) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-support or self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of aid to the permanently and totally disabled and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary, for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care.

Subsec. (a)(4). Pub. L. 87-543, § 101(b)(4)(B), added subsec. (a)(4).

Subsec. (c). Pub. L. 87-543, § 101(b)(4)(C), added subsec. (c).

1961—Subsec. (a). Pub. L. 87-64 substituted "$31" for "$30" and "$66" for "$65" in cl. (1), and "$35.50" for "$35" in cl. (2).

1958—Subsec. (a). Pub. L. 85-840, increased the payments to the States to four-fifths of the first $30 of the average monthly payment per recipient, including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of $65, increased the average monthly payment to Puerto Rico and the Virgin Islands from $30 to $35, excluded Guam from the provisions which authorize an average monthly payment of $65 and included Guam within the provisions which authorize an average monthly payment of $35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 304, substituted "during such quarter as aid to the permanently and totally disabled in the form of money payments under the State plan" for "during such quarter as aid to the permanently and totally disabled under the State plan" in cls. (1) and (2), "who received aid to the permanently and totally disabled in the form of money payments for each month" for "who received aid to the permanently and totally disabled for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 314(c), eliminated ", which shall be used exclusively as aid to the permanently and totally disabled," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 344, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to the permanently and totally disabled," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "$60" for "$55", "the product of $30" for "the product of $25", "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled, or both, and for no other purpose".

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first $25 plus one-half of the remainder within individual maximums of $55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 effective Jan. 1, 1968, see section 212(e) of Pub. L. 90-248, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of subsec. (a)(1) of this section by section 401 of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) (1), (2) of this section by section 132(c) of Pub. L. 67–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87–543, set out as a note under section 303 of this title.

Amendment of subsec. (a) (3) of this section by section 101(a) (4) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a) (4) and (c) and amendment of subsec. (a) (3) of this section by section 101(b) (4) (A)—(C) of Pub. L. 87–543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87–543, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 87–64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87–64, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment of this section by Pub. L. 85–840, see section 512 of Pub. L. 85–840, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) of this section by section 344 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of such act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by section 304 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952, and ending Sept. 30, 1954, see note set out under section 303 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the Office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 21(b) of Pub. L. 89–97, set out as a note under section 1396b of this title.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI or this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87–543, set out as a note under section 1383 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1317, 1318, 1319, 1396b of this title.

§ 1354. Operation of State plans.

In the case of any State plan for aid to the permanently and totally disabled which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1352(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1352(a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until he is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title XIV, § 1404, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Jan. 2, 1968, Pub. L. 90–248, title II, § 245, 81 Stat. 918.)

AMENDMENTS

1968—Pub. L. 90–248 inserted "(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)" after "further payments will not be made to the State" and substituted in last sentence "further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)" for "further certification to the Secretary of the Treasury with respect to such State".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1355. Definitions.

For the purposes of this subchapter, the term "aid to the permanently and totally disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is

an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1352 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the permanently and totally disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) for any individual with respect to whom it is made.

(Aug. 14, 1935, ch. 531, title XIV, § 1405, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended July 25, 1962, Pub. L. 87-543, title I, § 156(d), 76 Stat. 207; July 30, 1965, Pub. L. 89-97, title II, § 221(c), title IV, § 402(d), 79 Stat. 358, 417.)

AMENDMENTS

1965—Pub. L. 89-97 deleted from the definition of "aid to the permanently and totally disabled" the exclusion of payments to or medical care in behalf of any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and extended the definition of "aid to the permanently and totally disabled" to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards determined by the Secretary) is interested in or concerned with the welfare of such needy individual and enumerated the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs of the individual, special efforts to protect welfare, periodic review, and opportunity for fair hearing, respectively.

1962—Pub. L. 87-543 inserted "(if provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as a note under section 303 of this title.

Amendment of section by Pub. L. 89-97, § 402(d), applicable in the case of expenditures made after December 31, 1965, under a state plan approved under subchapter I, X, XIV, or XVI of this chapter, see section 402(e) of Pub. L. 89-97, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by section 156(d) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as a note under section 306 of this title.

SUBCHAPTER XV.—UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

§§ 1361 to 1364. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 658, 660, 661.

Section 1361, act Aug. 14, 1935, ch. 531, title XV, § 1501, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat 1130, and amended Aug. 28, 1958, Pub. L. 85-848, § 2, 72 Stat. 1087; July 12, 1960, Pub. L. 86-624, § 30(g), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title V, §§ 531(e), 542(d), 74 Stat. 984, 986, defined terms used in this subchapter.

Section 1361, subsec. (a)(6), (9), amended Jan. 2, 1968, Pub. L. 90-248, title IV, § 403(f), 81 Stat. 932, without reference to repeal of such section by Pub. L. 89-554, § 8(a).

Section 1362, act Aug. 14, 1935, ch. 531, title XV, § 1502, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1131, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 543(b)(1)(A), 74 Stat. 985, provided for compensation of Federal employees under state agreements.

Section 1363, act Aug. 14, 1935, ch. 531, title XV, § 1503, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1132, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 543(b)(1)(B), (C), (c)(1), 74 Stat. 986, provided for compensation of Federal employees in absence of state agreement.

Section 1364, act Aug. 14, 1935, ch. 531, title XV, § 1504, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 542(b)(2), 74 Stat. 986, related to assignment to State of Federal service and wages.

§ 1365. Repealed. Pub. L. 86-442, § 1, Apr. 22, 1960, 74 Stat. 81.

Section, act Aug. 14, 1935, ch. 531, title XV, § 1505, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, related to the status of a Federal employee who was performing Federal service at the time of his separation from employment by the United States.

EFFECTIVE DATE OF REPEAL

Repeal of section effective only with respect to benefit years which began more than thirty days after the date of enactment of Pub. L. 86-442 (Apr. 22, 1960).

§§ 1366 to 1371. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 658, 660, 661.

Section 1366, act Aug. 14, 1935, ch. 531, title XV, § 1506, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, provided for payments to States.

Section 1367, act Aug. 14, 1935, ch. 531, title XV, § 1507, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1134, and amended Aug. 28, 1958, Pub. L. 85-848, § 4, 72 Stat. 1089; Sept. 13, 1960, Pub. L. 86-778, title V, § 531(f), 74 Stat. 984, provided for dissemination of information by both Federal and State agencies.

Sections 1368—1370, act Aug. 14, 1935, ch. 531, title XV, §§ 1508-1510, as added Sept. 1, 1954, ch. 1212, § 4(a), 68

Stat. 1135, provided penalties, authorized the Secretary to make rules and regulations, and authorized appropriations.

Section 1371, act Aug. 14, 1935, ch. 531, title XV, § 1511, as added Aug. 28, 1958, Pub. L. 85–848, § 3, 72 Stat. 1087, and amended Sept. 2, 1958, Pub. L. 85–857, § 13(i)(3), 72 Stat. 1265; Apr. 22, 1960, Pub. L. 86–442, § 2, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86–778, title V, § 542(c), 74 Stat. 986, provided an ex-servicemen's unemployment compensation program.

SUBCHAPTER XVI.—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 428, 1301, 1306, 1308, 1309, 1311, 1315, 1316, 1317, 1318, 1319, 1320a, 1395v, 1396a, 1396b, 1396d of this title.

§ 1381. Authorization of Appropriations.

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of individuals who are 65 years of age or over and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged. (Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87–543, title I, § 141 (a), 76 Stat. 197.)

§ 1382. State plans for aid to aged, blind, or disabled or for such aid and medical assistance for aged.

(a) Contents.

A State plan for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged, must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) provide a description of the services (if any) which the State agency makes avaliable to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under subchapter I of this chapter or aid under the State plan approved under part A of subchapter IV of this chapter or under subchapter X or XIV of this chapter;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first $85 per month of earned income plus one-half of earned income in excess of $85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan,

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first $80 per month of earned income, the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first $80 per month of earned income the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph (14), disregard not more than $7.50 of any income;

(15) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom; and

(D) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(16) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 1383(a)(4)(A)(i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(17) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this subchapter, the State

agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter was different from the State agency which administered or supervised the administration of the plan of such State approved under subchapter I of this chapter and the State agency which administered or supervised the administration of the plan of such State approved under subchapter XIV of this chapter, the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter may be designated to administer or supervise the administration of portion of the State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter.

(b) Approval by Secretary.

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for aid to the aged, blind, or disabled excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for such aid and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1202(b) of this title following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) was submitted for approval under this subchapter, the Secretary shall approve the plan of such State for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) for purposes of this subchapter, even though it does not meet the requirements of paragraph (14) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged); but payments under section 1383 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1383 of this title under a plan approved under this section without regard to the provisions of this sentence.

(c) Limitation on number of plans.

Subject to the last sentence of subsection (a) of this section, nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter. (Aug. 14, 1935, ch. 531, title XVI, § 1602, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88–650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89–97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917.)

REFERENCES IN TEXT

Section 344 of the Social Security Act Amendments of 1950, referred to in subsec. (b), refers to section 344 of act Aug. 28, 1950, ch. 809, title III, pt. 4, 64 Stat. 544, which was classified to section 1202a of this title and note thereunder, was repealed by section 136(b) of Pub. L. 87–543.

CODIFICATION

Amendment by section 213(a)(4) of Pub. L. 90–248 to section 1604(a)(14)(D) of act Aug. 14, 1935, has been executed to section 1602(a)(14)(D) of such act, classified to subsec. (a)(14)(D) of this section to conform to apparent congressional intent, rather than to section 1604 of such act, classified to section 1384 of this title, as such section is without any subsec. (a)(14)(D) text.

AMENDMENTS

1968—Subsec. (a)(5). Pub. L. 90–248, § 210(a)(5), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(11). Pub. L. 90–248, § 241(d), substituted "part A of subchapter IV of this chapter or under subchapter X or XIV of this chapter" for "subchapter IV, X, or XIV of this chapter".

Subsec. (a)(14)(D). Pub. L. 90–248, § 213(a)(4), increased from $5 to $7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(14). Pub. 89–97, § 403(e), denominated as subpar. (A) the provisions pertaining to blind individuals and denominated former clauses (A) and (B) of such provisions as clauses (i) and (ii) of subpar. (A) respectively and substituted subpars. (B), (C), and (D) for the remaining former provisions which allowed the state, in making its determination of need with respect to any other individual who had attained the age of 65 and was claiming aid to the aged, blind, or disabled, of the first $50 per month of earned income, to disregard, after December 31, 1962, not more than the first $10 thereof, plus one-half of the remainder.

Subsec. (a) (16), (17). Pub. L. 89–97, § 221(d)(3), added clauses (16) and (17).

1964—Subsec. (a)(14). Pub. L. 88–650 permitted the State agency, for a period not in excess of thirty-six months, to disregard such additional amounts of other income and resources.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(5) by section 210(a)(5) of Pub. L. 90–248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90–248, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 403(e) of Pub. L. 89–97 provided in part that the amendment of subsec. (a)(14) of this section by said section was effective October 1, 1965.

Amendment of this section by section 221 of Pub. L. 89–97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89–97, set out as a note under section 303 of this title.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(5)(A) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1383, 1384, 1385 of this title.

§ 1383. Payments to States; quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965.

(a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this subchapter for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii)(I) the Federal medical percentage (as defined in section 306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 306(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) In the case of any State whose State plan approved under section 1382 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid or assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided,* That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 1382 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary,

of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 1382 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection.

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection. (Aug. 14, 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200, and amended July 30, 1965, Pub. L. 89-97, title I, § 122, title II, § 221(d)(4), title IV, § 401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90-248, title II, § 212(d), 81 Stat. 898.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(4)(D), (E), is classified to sections 31—42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(4)(D)(i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1968—Subsec. (a)(4)(D). Pub. L. 90-248 inserted ", except to the extent specified by the Secretary" following "shall" in the introductory text to subpar. (D).

1965—Subsec. (a)(1). Pub. L. 89-97, §§ 122, 401(b) inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipients of money payments under such plan and other" after "expenditures for" in parenthetical phrase appearing in so much of par. (1) as precedes clause (A); and changed the first step of the formula for determining federal payments to states with approved plans for assistance to the aged, blind, or disabled under this subchapter, contained in clause (A), by providing federal sharing in 31/37ths of the first $37 of the average monthly assistance payment instead of 29/35ths of the first $35 of the average monthly assistance payment, extended the application of the federal percentage in the second step of the formula to an additional $38 of the state's average payment, restated the formula for the second and third steps by eliminating clause (C) and combining such steps in clause (B) and making provision therein to give recognition to the state's expenditures for care before applying the federal percentage to the remaining expenditures for which federal participation is available, respectively.

Subsec. (a)(2)(A). Pub. L. 89-97, § 122, inserted "premiums under part B of subchapter XVIII of this chapter for individuals who are recipents of money payments under such plan and other" after "expenditures for" in parenthetical phrase.

Subsec. (d). Pub. L. 89-97, § 221(d)(4), added subsec. (d).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 effective Jan. 1, 1968, see section 212(e) of Pub. L. 90-248, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as a note under section 303 of this title.

Amendent of subsec. (a)(1) of this section by section 401 of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a state plan approved under subchapter I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as a note under section 303 of this title.

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical

or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89–97, set out as a note under section 1396b of this title.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Section 141(b) of Pub. L. 87–543 provided that: "No payment may be made to a State under title I, X, or XIV of the Social Security Act [subchapter I, X, or XIV of this chapter] for any period for which such State receives any payments under title XVI of such Act [this subchapter] or any period thereafter."

OVERPAYMENT OR UNDERPAYMENT ADJUSTMENTS

Section 141(f) of Pub. L. 87–543 provided that: "In the case of any State which has a State plan approved under title XVI of the Social Security Act [this subchapter], any overpayment or underpayment which the Secretary determines was made to such State under section 3, 1003, or 1403 of such Act [section 303, 1203, or 1353 of this title] with respect to a period before the approval of the plan under such title XVI [this subchapter], and with respect to which adjustment has not been already made under subsection (b) of such section 3, 1003, or 1403 [subsec. (b) of section 303, 1203, or 1353 of this title], shall, for purposes of section 1603(b) of such Act [subsec. (b) of this section], be considered an overpayment or underpayment (as the case may be) made under section 1603 of such Act [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1317, 1318, 1319, 1382, 1396a, 1396b of this title.

§ 1384. Operation of State plans.

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1382 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title XVI, § 1604, as added July 25, 1962, Pub. L. 87–543, title I, § 141(a), 76 Stat. 204.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1385. Definitions.

(a) For purposes of this subchapter, the term "aid to the aged, blind, or disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1382 of this title includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) of this subsection for any individual with respect to whom it is made.

(b) For purposes of this subchapter, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals who are sixty-five years of age or older and who are not recipients of aid to the aged, blind, or disabled (except, for any month, for recipients of aid to the aged, blind, or disabled who are admitted to or discharged from a medical institution during such month) but

whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;

(2) skilled nursing-home services;

(3) physicians' services;

(4) outpatient hospital or clinic services;

(5) home health care services;

(6) private duty nursing services;

(7) physical therapy and related services;

(8) dental services;

(9) laboratory and X-ray services;

(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;

(11) diagnostic, screening, and preventive services; and

(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution). (Aug. 14, 1935, ch. 531, title XVI, § 1605, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204, and amended July 30, 1965, Pub. L. 89-97, title II, §§ 221(d) (1), (2), 222(b), title IV, § 402(b), 79 Stat. 358, 360, 416.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-97, § 221(d)(1), deleted from the definition of "aid to the aged, blind, or disabled" the exclusion of (1) payments to or medical care in behalf of any individual who is a patient in an institution for tuberculosis or mental diseases, or (2) payments to any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or (3) medical care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

Pub. L. 89-97, § 402(b), extended the definition of "aid to the aged, blind, or disabled" to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of the needy individual and enumerated the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs of needy individual, special efforts to protect welfare, periodic review, and opportunity for fair hearing.

Subsec. (b). Pub. L. 89-97, §§ 221(d)(2), 222(b), deleted from the provision at end of clause (12) excluding certain payments from definition of "medical assistance for the aged" payments with respect to care or services for any individual who is a patient in an institution for tuberculosis or mental diseases or for any individual who is a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, for forty-two days and inserted in the text preceding clause (1) "(except, for any month, for recipients of aid to the aged, blind, or disabled who are admitted to or discharged from a medical institution during such month)" following "who are not recipients of aid to the aged, blind, or disabled", respectively.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by section 221 of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as a note under section 303 of this title.

Amendment of this section by section 222 of Pub. L. 89-97 applicable in the case of expenditures under a State plan approved under this subchapter with respect to care and services provided under such plan after June 1965, see section 222(c) of Pub. L. 89-97, set out as a note under section 306 of this title.

Amendment of subsec. (a) by Pub. L. 89-97, § 402(b), applicable in the case of expenditures made after December 31, 1965, under a state plan approved under subchapter I, X, XIV, or XVI of this chapter, see section 402(e) of Pub. L. 89-97, set out as a note under section 306 of this title.

SUBCHAPTER XVII.—GRANTS FOR PLANNING COMPREHENSIVE ACTION TO COMBAT MENTAL RETARDATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 426 of this title.

§ 1391. Appropriations.

For the purpose of assisting the States (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) to plan for and take other steps leading to comprehensive State and community action to combat mental retardation, there is authorized to be appropriated the sum of $2,200,000. There are also authorized to be appropriated, for assisting such States in initiating the implementation and carrying out of planning and other steps to combat mental retardation, $2,750,000 for the fiscal year ending June 30, 1966, and $2,750,000 for the fiscal year ending June 30, 1967. (Aug. 14, 1935, ch. 531, title XVII, § 1701, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275, and amended July 30, 1965, Pub. L. 89-97, title II, § 211(a), 79 Stat. 356.)

AMENDMENTS

1965—Pub. L. 89-97 authorized appropriations of $2,750,000 for fiscal years ending June 30, 1966 and 1967 for implementation of mental retardation planning.

SHORT TITLE

Section 1 of Pub. L. 88-156 provided: "That this Act [enacting this subchapter and sections 729 and 729a of this title, amending sections 701, 702 (a), (b), 711 and 712 (a), (b) of this title, and enacting provisions set out as a note under this section] may be cited as the 'Maternal and Child Health and Mental Retardation Planning Amendments of 1963'."

DEFINITION OF "SECRETARY"

Section 6 of Pub. L. 88-156 provided that: "As used in the amendments to the Social Security Act made by this Act [see Short Title note under this section], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1392 of this title.

§ 1392. Availability of funds during certain fiscal years; limitation on amount; utilization of grant.

The sums appropriated pursuant to the first sentence of section 1391 of this title shall be available for grants to States by the Secretary during the fiscal year ending June 30, 1964, and the succeeding fiscal year; and the sums appropriated pursuant to the second sentence of such section for the fiscal year ending June 30, 1966, shall be available for such grants during such year and the next two fiscal years, and sums appropriated pursuant thereto for the fiscal year ending June 30, 1967, shall be available for such grants during such year and the succeeding fiscal year. Any such grant to a State, which shall not exceed 75 per centum of the cost of the planning and related activities involved, may be used

by it to determine what action is needed to combat mental retardation in the State and the resources available for this purpose, to develop public awareness of the mental retardation problem and of the need for combating it, to coordinate State and local activities relating to the various aspects of mental retardation and its prevention, treatment, or amelioration, and to plan other activities leading to comprehensive State and community action to combat mental retardation. (Aug. 14, 1935, ch. 531, title XVII, § 1702, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275, and amended July 30, 1965, Pub. L. 89-97, title II, § 211(b), 79 Stat. 356.)

AMENDMENTS

1965—Pub. L. 89-97 inserted the provision making appropriations for fiscal year ending June 30, 1966 available for grants during such fiscal year and the next two fiscal years and the appropriation for fiscal year ending June 30, 1967 available for grants during such fiscal year and the succeeding fiscal year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1393 of this title.

§ 1393. Applications; single State agency designation; essential planning services; plans for expenditure; final activities report and other necessary reports; records; accounting.

In order to be eligible for a grant under section 1392 of this title, a State must submit an application therefor which—

(1) designates or establishes a single State agency, which may be an interdepartmental agency, as the sole agency for carrying out the purposes of this subchapter;

(2) indicates the manner in which provision will be made to assure full consideration of all aspects of services essential to planning for comprehensive State and community action to combat mental retardation, including services in the fields of education, employment, rehabilitation, welfare, health, and the law, and services provided through community programs for and institutions for the mentally retarded;

(3) sets forth its plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this subchapter;

(4) provides for submission of a final report of the activities of the State agency in carrying out the purposes of this subchapter, and for submission of such other reports, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this subchapter and for keeping such records and affording such access thereto as he may find necessary to assure the correctness and verification of such reports; and

(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subchapter.

(Aug. 14, 1935, ch. 531, title XVII, § 1703, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275.)

§ 1394. Payments to States; adjustments; advances or reimbursement; installments; conditions.

Payment of grants under this subchapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine. (Aug. 14, 1935, ch. 531, title XVII, § 1704, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 276.)

SUBCHAPTER XVIII.—HEALTH INSURANCE FOR THE AGED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 401, 1353, 1383, 1396a, 1396e of this title.

§ 1395. Prohibition against any Federal interference.

Nothing in this subchapter shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer or employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person. (Aug. 14, 1935, ch. 531, title XVIII, § 1801, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291.)

SHORT TITLE

Section 100 of Pub. L. 89-97 provided that: "This title [which enacted this subchapter, sections 426, 907, and 1396-1396d of this title, and section 228s-2 of Title 45, amended sections 303, 401, 401a, 402, 418, 603, 1203, 1301, 1306, 1309, 1315, 1353, 1383, and 1395kk of this title, sections 72, 79, 213, 401, 405, 1401, 3101, 3111, 3201, 3211, 3221, and 6051 of Title 26, and sections 228e and 228s-2 of Title 45, and enacted provisions set out as notes under sections 426, 1301, 1309, 1315, 1395*l*, 1395*o*, 1395p, and 1396b of this title, sections 213 and 3201 of Title 26, and section 228s-2 of Title 45] may be cited as the 'Health Insurance for the Aged Act'."

§ 1395a. Free choice by patient guaranteed.

Any individual entitled to insurance benefits under this subchapter may obtain health services from any institution, agency, or person qualified to participate under this subchapter if such institution, agency, or person undertakes to provide him such services. (Aug. 14, 1935, ch. 531, title XVIII, § 1802, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291.)

§ 1395b. Option to individuals to obtain other health insurance protection.

Nothing contained in this subchapter shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services. (Aug. 14, 1935, ch. 531, title XVIII, § 1803, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 291.)

§ 1395b-1. Incentives for economy while maintaining or improving quality in the provision of health services.

(a) Payments or reimbursement of physicians, organizations, or institutions engaged in experiments; basis.

The Secretary of Health, Education, and Welfare is authorized to develop and engage in experiments under which physicians who would otherwise be entitled to receive payment on the basis of reasonable charge, and organizations and institutions which

would otherwise be entitled to reimbursement or payment on the basis of reasonable cost, for services provided—

(1) under this subchapter,

(2) under a State plan approved under subchapter XIX of this chapter, or

(3) under a plan developed under subchapter V of this chapter,

and which are selected by the Secretary in accordance with regulations established by the Secretary, would be reimbursed or paid in any manner mutually agreed upon by the Secretary and the physician, organization, or institution. The method of payment (in the case of physicians) or reimbursement (in the case of an organization or institution) which may be applied in such experiments shall be such as the Secretary may select and may be based on charges or costs adjusted by incentive factors and may include specific incentive payments or reductions of payments for the performance of specific actions but in any case shall be such as he determines may, through experiment, be demonstrated to have the effect of increasing the efficiency and economy of health services through the creation of additional incentives to these ends without adversely affecting the quality of such services.

(b) Waiver of certain payment or reimbursement requirements; advice and recommendations of specialists preceding experimentation.

In the case of any experiment under subsection (a) of this section, the Secretary may waive compliance with the requirements of this subchapter and subchapters V and XIX of this chapter insofar as such requirements relate to reimbursement or payment on the basis of reasonable cost, or (in the case of physicians) on the basis of reasonable charge; and costs incurred in such experiment in excess of the costs which would otherwise be reimbursed or paid under such subchapters may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment shall be engaged in or developed under subsection (a) of this section until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed experiment as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct the proposed experiment, and its relationship to other similar experiments already completed or in process. (Pub. L. 90–248, title IV, § 402(a), (b), Jan. 2, 1968, 81 Stat. 930, 931.)

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 402 of Pub. L. 90–248. Subsec. (c) of such section 402 amended section 1395*ll*(b) of this title.

Section was enacted as a part of the Social Security Amendments of 1967 and not as a part of the Social Security Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395*ll* of this title.

PART A.—HOSPITAL INSURANCE BENEFITS FOR THE AGED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 402, 417, 426, 426a, 429, 907, 1395*l*, 1395p, 1395x, 1395y, 1395aa, 1395*ll* of this title; title 26 section 6051.

§ 1395c. Description of program.

The insurance program for which entitlement is established by section 426 of this title provides basic protection against the costs of hospital and related post-hospital services in accordance with this part for individuals who are age 65 or over and are entitled to retirement benefits under subchapter II of this chapter or under the railroad retirement system. (Aug. 14, 1935, ch. 531, title XVIII, § 1811, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 291.)

ADVISORY COUNCIL TO STUDY COVERAGE OF THE DISABLED UNDER SUBCHAPTER XVIII

Section 140 of Pub. L. 90–248, title I, Jan. 2, 1968, 81 Stat. 854, provided that:

"(a) The Secretary of Health, Education, and Welfare shall appoint an Advisory Council to study the need for coverage of the disabled under the health insurance program of title XVIII of the Social Security Act [this subchapter].

"(b) The Council shall be appointed by the Secretary during 1968 without regard to the provisions of title 5, United States Code [Title 5, Government Organization and Employees], governing appointments in the competitive service and shall consist of 12 persons who shall, to the extent possible, represent organizations of employer and employees in equal numbers, and represent self-employed persons and the public.

"(c) The Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary shall, in addition, make availble to such Council such secretrial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

"(d) Members of the Council, while serving on the business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day and, while so serving away from their homes or regular places fo business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code [section 5703 of Title 5, Government Organization and Employees], for persons in the Government employed intermittently.

"(e) The Council shall make findings on the unmet need of the disabled for health insurance, on the costs involved in providing the disabled with insurance protection to cover the cost of hospital and medical services, and on the ways of financing this insurance. The Council shall submit a report of its findings to the Secretary not later than January 1, 1969, together with recommendations on how such protection should be financed and, if such financing is to be accomplished through the trust funds established under title XVIII of the Social Securtiy Act [this subchapter], on the extent to which each of such trust funds should bear the cost of such financing. Such report shall thereupon be transmitted to the Congress and to the Boards of Trustees created by sections 1817(b) and 1841(b) of the Social Security Act [sections 1395i and 1395t of this title]. After the date of transmittal to the Congress of the report, the Council shall cease to exist."

REIMBURSEMENT OF CHARGES UNDER PART A FOR SERVICES TO PATIENTS ADMITTED PRIOR TO 1968 TO CERTAIN HOSPITALS

Section 142 of Pub. L. 90–248, title I, Jan. 2, 1968, 81 Stat. 855, provided that:

"(a) Notwithstanding any provision of title XVIII of the Social Security Act [this subchapter] an individual who is entitled to hospital insurance benefits under section 226 of such Act [section 426 of this title] may, subject to subsections (b) and (c), receive, on the basis of an itemized bill, reimbursement for charges to him for inpatient hospital services (as defined in section 1861 of such Act [section 1395x of this title], but without regard to subsection (e) of such section) furnished by, or under

arrangements (as defined in section 1861(w) of such Act [section 1395x(w) of this title] with, a hospital if—

"(1) the hospital did not have an agreement in effect under section 1866 of such Act [section 1395cc of this title] but would have been eligible for payment under part A of title XVIII of such Act [this part] with respect to such services if at the time such services were furnished the hospital had such an agreement in effect;

"(2) the hosptial (A) meets the requirements of paragraphs (5) and (7) of section 1861(e) of such Act [section 1395x(e) of this title], (B) is not primarily engaged in providing the services described in section 1861(j)(1)(A) of such Act [section 1395x(j)(1)(A) of this title], and (C is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of section 1861(r) of such Act [section 1395x(r) of this title], to inpatients (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(3) the hospital did not meet the requirements that must be met to permit payment to the hosptial under part A of title XVIII of such Act [this part]; and

"(4) an application is filed (submitted in such form and manner and by such person, and containing and supported by such information, as the Secretary shall by regulations prescribe) for reimbursement before January 1, 1969.

"(b) Payments under this section may not be made for inpatient hospital services (as described in subsection (a)) furnished to an individual—

"(1) prior to July 1, 1966,

"(2) after December 31, 1967, unless furnished with respect to an admission to the hospital prior to January 1, 1968, and

"(3) for more than—

"(A) 90 days in any spell of illness, but only if (i) prior to January 1, 1969, the hospital furnishing such services entered into an agreement under section 1866 of the Social Security Act [section 1395cc of this title] and (ii) the hospital's plan for utilization review, as provided for in section 1861(k) of such Act [section 1395x(k) of this title], has, in accordance with section 1814 of such Act [section 1395f of this title], been applied to the services furnished such individual, or

"(B) 20 days in any spell of illness, if the hospital did not meet the conditions of clauses (i) and (ii) of subparagraph (A).

"(c)(1) The amounts payable in accordance with subsection (a) with respect to inpatient hospital services shall, subject to paragraph (2) of this subsection, be paid from the Federal Hospital Insurance Trust Fund in amounts equal to 60 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the individual or in semi-private accommodations (as defined in section 1861(v)(4) of the Social Security Act [section 1395x(v)(4) of this title]) whichever is less, plus 80 percent of the hosptial's reasonable charges for ancillary services. If separate charges for routine and ancillary services are not made by the hospital, reimbursement may be based on two-thirds of the hospital's reasonable charges for the services received but not to exceed the charges which would have been made if the patient had occupied semi-private accommodations (as so defined). For purposes of the preceding provisions of this paragraph, the term 'routine services' shall mean the regular room, dietary, and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made; the term 'ancillary services' shall mean those special services' for which charges are customarily made in addition to routine services.

"(2) Before applying paragraph (1), payments made under this section shall be reduced to the extent provided for under section 1813 of the Social Security Act [section 1395e of this title] in the case of benefits payable to providers of services under part A of title XVIII of such Act [this part].

"(d) For the purposes of this section—

"(1) the 90-day period, referred to in subsection (b)(3)(A), shall be reduced by the number of days of inpatient hospital services furnished to such individual during the spell of illness, referred to therein, and with respect to which he was entitled to have payment made under part A of title XVIII of the Social Security Act [this part];

"(2) the 20-day period, referred to in subsection (b)(3)(B) shall be reduced by the number of days in excess of 70 days of inpatient hospital services furnished during the spell of illness, referred to therein, and with respect to which such individual was entitled to have payment made under such part A [this part];

"(3) the term 'spell of illness' shall have the meaning assigned to it by subsection (a) of section 1861 of such Act [section 1395x(a) of this title] except that the term 'inpatient hospital services' as it appears in such subsection shall have the meaning assigned to it by subsection (a) of this section."

§ 1395d. Scope of benefits.

(a) The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1395f(d)(2) of this title to him (subject to the provisions of this part) for—

(1) inpatient hospital services for up to 150 days during any spell of illness minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2) post-hospital extended care services for up to 100 days during any spell of illness; and

(3) post-hospital home health services for up to 100 visits (during the one-year period described in section 1395x(n) of this title) after the beginning of one spell of illness and before the beginning of the next.

(b) Payment under this part for services furnished an individual during a spell of illness may not (subject to subsection (c) of this section) be made for—

(1) inpatient services furnished to him during such spell after such services have been furnished to him for 150 days during such spell minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2) post-hospital extended care services furnished to him during such spell after such services have been furnished to him for 100 days during such spell; or

(3) inpatient psychiatric hospital services furnished to him after such services have been furnished to him for a total of 190 days during his lifetime.

(c) If an individual is an inpatient of a psychiatric hospital on the first day of the first month for which he is entitled to benefits under this part, the days on which he was an inpatient of such a hospital in the 150-day period immediately before such first day

shall be included in determining the number of days limit under subsection (b)(1) of this section insofar as such limit applies to (1) inpatient psychiatric hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness (but shall not be included in determining such number of days limit insofar as it applies to other inpatient hospital services or in determining the 190-day limit under subsection (b)(3) of this section).

(d) Payment under this part may be made for post-hospital home health services furnished an individual only during the one-year period described in section 1395x(n) of this title following his most recent hospital discharge which meets the requirements of such section, and only for the first 100 visits in such period. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1395x(m) of this title, shall be determined in accordance with regulations.

(e) For purposes of subsections (b), (c), and (d) of this section, inpatient hospital services, inpatient psychiatric hospital services, post-hospital extended care services, and post-hospital home health services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1395f(a) of this title, made with respect to such services under this part.

(f) For definitions of "spell of illness", and for definitions of other terms used in this part, see section 1395x of this title. (Aug. 14, 1935, ch. 531, title XVIII, § 1812, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 291, and amended Jan. 2, 1968, Pub. L. 90–248, title I, §§ 129(c)(2), 137(a), 138(a), 143(b), 146(a), 81 Stat. 847, 853, 854, 857, 859.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 143(b), inserted "or, in the case of payments referred to in section 1395f (d)(2) of this title to him" after "on his behalf" in text preceding par. (1).

Subsec. (a)(1). Pub. L. 90–248, § 137(a)(1), increased the maximum duration of benefits from 90 to 150 days minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies that he does not desire to have such payment made).

Subsec. (a)(4). Pub. L. 90–248, § 129(c)(2), deleted former par. (4) which provided for payment for outpatient hospital diagnostic services.

Subsec. (b)(1). Pub. L. 90–248, § 137(a)(2), changed the limitation on payments from 90 to 150 days minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies that he does not desire to have such payment made).

Subsec. (c). Pub. L. 90–248, § 138(a), increased the limit from 90 to 150 days so that if an individual was an inpatient of a psychiatric or tuberculosis hospital on the first day of the first month for which he is entitled to benefits, the days he was an inpatient in the 150-day period immediately before such first day are included in determining the limit under subsec. (b)(1) insofar as such limit applies to (1) inpatient psychiatric hospital services and inpatient tuberculosis hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness or tuberculosis (but are not included in determining such limit as it applies to other inpatient hospital services or in determining the 190-day limit under subsec. (b)(3)).

Pub. L. 90–248, § 146(a), provided that the limitation of allowable days of inpatient hospital services will not apply to services provided to an inpatient of a tuberculosis hospital.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 129(d) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsec. (a)(4) of this section and sections 426(b)(1), 1395e (a) (2)—(4), (b)(1), (2), 1395f(a), (d), 1395k(a)(2)(B), 1395*l*(b), (d), 1395n (a)—(c), 1395x(e), (p), (s)(2), (y)(3), 1395cc(a)(2) of this title, and section 228s–2(a) of Title 45] shall apply with respect to services furnished after March 31, 1968, except that subsection (c)(5) of such section [amending section 1395f(a) of this title] shall become effective with respect to services furnished after the date of enactment of this Act [Jan. 2, 1968]."

Section 137(c) of Pub. L. 90–248 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a)(1) and (b)(1) of this section and section 1395e (a)(1) of this title] shall apply with respect to services furnished after December 31, 1967."

Section 138(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [to subsec. (c) of this section] shall apply with respect to payment for services furnished after December 31, 1967."

Section 143(d) of Pub. L. 90–248 provided that: "The provisions made by subsection (a) of this section [amending section 1395x(e) of this title] shall become effective as of July 1, 1966, and the provisions made by subsections (b) and (c) of this section [amending subsec. (a) of this section and section 1395f(d) of this title] shall apply to services furnished with respect to admissions occurring after December 31, 1967, and to outpatient hospital diagnostic services furnished after December 31, 1967, and before April 1, 1968."

Section 146(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to subsec. (c) of this section] shall apply with respect to payment for services furnished after December 31, 1967."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395f of this title.

§ 1395e. Deductibles and coinsurance.

(a) Inpatient hospital services; outpatient hospital diagnostic services; blood; post-hospital extended care services.

(1) The amount payable for inpatient hospital services furnished an individual during any spell of illness shall be reduced by a deduction equal to the inpatient hospital deductible or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed. Such amount shall be further reduced by a coinsurance amount equal to—

(A) one-fourth of the inpatient hospital deductible for each day (before the 91st day) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell; and

(B) one-half of the inpatient hospital deductible for each day (before the day following the last day for which such individual is entitled under section 1395d(a)(1) of this title to have payment made on his behalf for inpatient hospital services during such spell of illness) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 90 days during such spell;

except that the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for such services (and for this purpose, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed).

(2) The amount payable to any provider of services under this part for services furnished an individual during any spell of illness shall be further reduced by a deduction equal to the cost of the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to him as part of such services during such spell of illness.

(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days during such spell.

(b) Inpatient hospital deductible.

(1) The inpatient hospital deductible which shall be applicable for the purposes of subsection (a) of this section shall be $40 in the case of any spell of illness beginning before 1969.

(2) The Secretary shall, between July 1 and October 1 of 1968, and of each year thereafter, determine and promulgate the inpatient hospital deductible which shall be applicable for the purposes of subsection (a) of this section in the case of any spell of illness beginning during the succeeding calendar year. Such inpatient hospital deductible shall be equal to $40 multiplied by the ratio of (A) the current average per diem rate for inpatient hospital services for the calendar year preceding the promulgation, to (B) the current average per diem rate for such services for 1966. Any amount determined under the preceding sentence which is not a multiple of $4 shall be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, to the next higher multiple of $4). The current average per diem rate for any year shall be determined by the Secretary on the basis of the best information available to him (at the time the determination is made) as to the amounts paid under this part on account of inpatient hospital services furnished during such year, by hospitals which have agreements in effect under section 1395cc of this title, to individuals who are entitled to hospital insurance benefits under section 426 of this title, plus the amount which would have been so paid but for subsection (a)(1) of this section. (Aug. 14, 1935, ch. 531, title XVIII, § 1813, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 292, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(3), (4), 135(a), 137(b), 81 Stat. 847, 848, 852, 854.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90-248, § 137(b), designated existing provisions as subpar. (A), added subpar. (B) and the exception provision that the reduction for any day shall not exceed the charges for that day.

Subsec. (a)(2). Pub. L. 90-248, § 135(a), made the three pint deductible applicable also to equivalent quantities of packed red blood cells, as defined by the Secretary under regulations.

Subsec. (a) (2)—(4). Pub. L. 90-248, § 129(c)(3), deleted former par. (2) which provided for the reduction of the amount payable for outpatient hospital diagnostic services furnished an individual during a diagnostic study, and redesignated former pars. (3) and (4) as (2) and (3), respectively.

Subsec. (b) (1), (2). Pub. L. 90-248, § 129(c)(4) (A), (B), eliminated diagnostic studies from the application of the inpatient hospital deductible.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (a) (2)—(4), (b) (1), (2) of this section by section 129(c)(3), (4) (A), (B) of Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as a note under section 1395d of this title.

Section 135(d) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a)(2) of this section and sections 1395(*l*)(b) and 1395cc(a)(2) of this title] shall apply with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967."

Amendment of subsec. (a)(1) of this section by section 137(b) of Pub. L. 90-248, applicable with respect to services furnished after December 31, 1967, see section 137(c) of Pub. L. 90-248, set out as a note under section 1395d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395*l*, 1395x, 1395cc of this title.

§ 1395f. Conditions of and limitations on payment for services.

(a) Requirement of requests and certifications.

Except as provided in subsection (d) of this section, payment for services furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc of this title and only if—

(1) written request, signed by such individual except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe;

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

(A) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or (ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;

(B) in the case of inpatient tuberculosis hospital services, such services are or were required to be given on an inpatient basis, by or under

the supervision of a physician, for the treatment of an individual for tuberculosis; and such treatment can or could reasonably be expected to (i) improve the condition for which such treatment is or was necesary or (ii) render the condition noncommunicable;

(C) in the case of post-hospital extended care services, such services are or were required to be given on an inpatient basis because the individual needs or needed skilled nursing care on a continuing basis for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (8) of section 1395x(e) of this title) prior to transfer to the extended care facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services; or

(D) in the case of post-hospital home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this title) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (8) of section 1395x(e) of this title) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician;

(3) with respect to inpatient hospital services (other than inpatient psychiatric hospital services and inpatient tuberculosis hospital services) which are furnished over a period of time, a physician certifies that such services are required to be given on an inpatient basis for such individual's medical treatment, or that inpatient diognostic study is medically required and such services are necessary for such purpose, except that (A) such certification shall be furnished only in such cases, with such frequency, and accompanied by such supporting material, appropriate to the cases involved, as may be provided by regulations, and (B) the first such certification required in accordance with clause (A) shall be furnished no later than the 20th day of such period;

(4) in the case of inpatient psychiatric hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving (A) intensive treatment services, (B) admission and related services necessary for a diagnostic study, or (C) equivalent services;

(5) in the case of inpatient tuberculosis hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving treatment which could reasonably be expected to (A) improve his condition or (B) render it noncommunicable;

(6) with respect to inpatient hospital services furnished such individual after the 20th day of a continuous period of such services and with respect to post-hospital extended care services furnished after such day of a continuous period of such services as may be prescribed in or pursuant to regulations, there was not in effect, at the time of admission of such individual to the hospital or extended care facility, as the case may be, a decision under section 1395cc(d) of this title (based on a finding that utilization review of long-stay cases is not being made in such hospital or facility); and

(7) with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section 1395x(k)(4) of this title) pursuant to the system of utilization review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or extended care facility, as the case may be, received notice of such finding.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), or (D) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

(b) Reasonable cost of services.

The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1395e of this title, be the reasonable cost of such services, as determined under section 1395x(v) of this title.

(c) No payments to Federal providers of services.

No payment may be made under this part (except under subsection (d) of this section) to any Federal provider of services, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.

(d) Payments for emergency hospital services.

(1) Payments shall also be made to any hospital for inpatient hospital services furnished in a calendar year, by the hospital or under arrangements (as defined in section 1395x(w) of this title) with it, to an individual entitled to hospital insurance benefits under section 426 of this title even though such

hospital does not have an agreement in effect under this subchapter if (A) such services were emergency services, (B) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has elected to claim payments for all such inpatient emergency services and for the emergency outpatient services referred to in section 1395n(b) of this title furnished during such year. Such payments shall be made only in the amounts provided under subsection (b) of this section and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 1395cc(a) of this title.

(2) Payment may be made on the basis of an itemized bill to an individual entitled to hospital insurance benefits under section 426 of this title for services described in paragraph (1) which are emergency services if (A) payment cannot be made under paragraph (1) solely because the hospital does not elect to claim such payment, and (B) such individual files application (submitted within such time and in such form and manner and by such person, and containing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement.

(3) The amounts payable under the preceding paragraph with respect to services described therein shall, subject to the provisions of section 1395e of this title, be equal to 60 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the individual or in semiprivate accommodations (as defined in section 1395x(v)(4) of this title), whichever is less, plus 80 percent of the hospital's reasonable charges for ancillary services. If separate charges for routine and ancillary services are not made by the hospital, reimbursement may be based on two-thirds of the hospital's reasonable charges for the services received but not to exceed the charges which would have been made if the patient had occupied semiprivate accommodations. For purposes of the preceding provisions of this paragraph, the term "routine services" shall mean the regular room, dietary, and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made; the term "ancillary services" shall mean those special services for which charges are customarily made in addition to routine services.

(e) Payment for inpatient hospital services prior to notification of noneligibility.

Notwithstanding that an individual is not entitled to have payment made under this part for inpatient hospital services furnished by any hospital, payment shall be made to such hospital (unless it elects not to receive such payment or, if payment has already been made by or on behalf of such individual, fails to refund such payment within the time specified by the Secretary) for such services which are furnished to the individual prior to notification to such hospital from the Secretary of his lack of entitlement, if such payments are precluded only by reason of section 1395d of this title and if such hospital complies with the requirements and regulations under this subchapter with respect to such payments, has acted in good faith and without knowledge of such lack of entitlement, and has acted reasonably in assuming entitlement existed. Payment under the preceding sentence may not be made for services furnished an individual pursuant to any admission after the 6th elapsed day (not including as an elapsed day Saturday, Sunday, or a legal holiday) after the day on which such admission occurred.

(f) Payment for certain emergency hospital services furnished outside the United States.

The authority contained in subsection (d) of this section shall be applicable to emergency inpatient hospital services furnished an individual by a hospital located outside the United States if—

(1) such individual was physically present in a place within the United States at the time the emergency which necessitated such inpatient hospital services occurred; and

(2) such hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

(Aug. 14, 1935, ch. 531, title XVIII, § 1814, as added July 30, 1965, Pub. L. 89-87, title I, § 102(a), 79 Stat. 294, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 126(a), 129(c) (5), (6)(A), 143(c), 81 Stat. 846, 848, 857.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-248, §§ 126(a)(5), 129(c)(5)(B), omitted references to former subpars. (E) and (F) in last sentence.

Subsec. (a)(2)(A)—(E). Pub. L. 90-248, § 126(a) (1), (2), deleted former subpar. (A) which provided that there be a physician's certification of medical necessity for admissions to hospitals other than psychiatric or tuberculosis institutions, and redesignated former subpars. (B)—(E) as (A)—(D), respectively.

Subsec. (a)(2)(F). Pub. L. 90-248, § 129(c)(5) (A), deleted former subpar. (F) which provided that there be a physician's certification for services furnished to outpatients.

Subsec. (a)(3). Pub. L. 90-248, § 126(a) (3), (4), added a new subpar. (3). Former subpar. (3) redesignated (4).

Subsec. (a)(4)-(7). Pub. L. 90-248, § 126(a)(3), redesignated former pars. (3)-(6) as (4)-(7), respectively.

Subsec. (d). Pub. L. 90-248, § 129(c)(6)(A), eliminated outpatient hospital diagnostic services from provisions requiring payment for emergency hospital services.

Subsec. (d) (1)—(3). Pub. L. 90-248, § 143(c), designated existing provisions as par. (1), inserted "in a calendar year" after "furnished" in first sentence of par. (1), added subpar. (C) to par. (1), and added pars. (2) and (3).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 126(c) of Pub. L. 90-248 provided that: "The amendments made by this section [to subsec. (a) of this section and section 1395n (a)(2)(B) of this title] shall apply with respect to services furnished after the date of the enactment of this Act [Jan. 2, 1968]."

Amendment of subsecs. (a), (d) of this section by section 129(c)(5) and (6) of Pub. L. 90-248, applicable with respect to services furnished after Jan. 2, 1968, see section 129(d) of Pub. L. 90-248 set out as a note under section 1395d of this title.

Amendment of subsec. (d) (1)—(3) of this section by section 143(c) of Pub. L. 90-248, applicable with respect to services furnished with respect to admissions occurring after December 31, 1967, and to outpatient hospital

diagnostic services furnished after December 31, 1967, and before April 1, 1968, see section 143(d) of Pub. L. 90–248 set out as a note under section 1395d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 426, 1395d, 1395n, 1395x, 1395y, 1395cc, 1395gg of this title.

§ 1395g. Payment to providers of services.

The Secretary shall periodically determine the amount which should be paid under this part to each provider of services with respect to the services furnished by it, and the provider of services shall be paid, at such time or times as the Secretary believes appropriate (but not less often than monthly) and prior to audit or settlement by the General Accounting Office, from the Federal Hospital Insurance Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid or any prior period. (Aug. 14, 1935, ch. 531, title XVIII, § 1815, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 297.)

§ 1395h. Use of public agencies or private organizations to facilitate payment to providers of services.

(a) If any group or association of providers of services wishes to have payments under this part to such providers made through a national, State, or other public or private agency or organization and nominates such agency or organization for this purpose, the Secretary is authorized to enter into an agreement with such agency or organization providing for the determination by such agency or organization (subject to such review by the Secretary as may be provided for by the agreement) of the amount of the payments required pursuant to this part to be made to such providers, and for the making of such payments by such agency or organization to such providers. Such agreement may also include provision for the agency or organization to do all or any part of the following: (1) to provide consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as hospitals, extended care facilities, or home health agencies, and (2) with respect to the providers of services which are to receive payments through it (A) to serve as a center for, and communicate to providers, any information or instructions furnished to it by the Secretary, and serve as a channel of communication from providers to the Secretary; (B) to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part; and (C) to perform such other functions as are necessary to carry out this subsection.

(b) The Secretary shall not enter into an agreement with any agency or organization under this section unless (1) he finds (A) that to do so is consistent with the effective and efficient administration of this part, and (B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 426 of this title, and the agreement provides for such assistance, and (2) such agency or organization agrees to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section as the Secretary may find necessary in performing his functions under this part.

(c) An agreement with any agency or organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate, may provide for advances of funds to the agency or organization for the making of payments by it under subsection (a) of this section, and shall provide for payment of so much of the cost of administration of the agency or organization as is determined by the Secretary to be necessary and proper for carrying out the functions covered by the agreement.

(d) If the nomination of an agency or organization as provided in this section is made by a group or association of providers of services, it shall not be binding on members of the group or association which notify the Secretary of their election to that effect. Any provider may, upon such notice as may be specified in the agreement under this section with an agency or organization, withdraw its nomination to receive payments through such agency or organization. Any provider which has withdrawn its nomination, and any provider which has not made a nomination, may elect to receive payments from any agency or organization which has entered into an agreement with the Secretary under this section if the Secretary and such agency or organization agree to it.

(e) An agreement with the Secretary under this section may be terminated—

(1) by the agency or organization which entered into such agreement at such time and upon such notice to the Secretary, to the public, and to the providers as may be provided in regulations, or

(2) by the Secretary at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if he finds, after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is disadvantageous or is inconsistent with the efficient administration of this part.

(f) An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(g)(1) No individual designated pursuant to an agreement under this section as a certifying officer

shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1).

(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) or (2). (Aug. 14, 1935, ch. 531, title XVIII, § 1816, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395u of this title.

§ 1395i. Federal Hospital Insurance Trust Fund.

(a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Hospital Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1966, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes imposed by sections 3101(b) and 3111(b) of Title 26 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Title 26 after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(b) of Title 26 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Title 26, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average marked yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not

a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) (1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(b) which are subject to refund under section 6413(c) of Title 26 with respect to wages paid after December 31, 1965. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1395gg(b) of this title. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1395gg(b) of this title.

(h) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 401(g)(1) of this title. (Aug. 14, 1935, ch. 531, title XVIII, § 1817, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 299, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 169(a), 81 Stat. 875.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (c), is Act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c-1, and sections 757c-2, 757c-3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1968—Subsec. (b)(2). Pub. L. 90-248 substituted "April" for "March".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 418, 426a, 1395i-1, 1395gg of this title.

§ 1395i-1. Same; authorization of appropriations.

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund, under this part with respect to individuals who are qualified railroad retirement beneficiaries (as defined in section 426(c) of this title) and who are not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to such benefits if service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, had been included in the term "employment" as defined in this chapter,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss of interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the individuals described in paragraph (1) had not been entitled to benefits under this part. (Pub. L. 89-97, title I, § 111(d), July 30, 1965, 79 Stat. 343.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in the text is classified to sections 228a to 228c-1, 228e to 288h and 228i to 228s-2 of Title 45, Railroads.

CODIFICATION

Section was enacted as a part of the Social Security Amendments of 1965 and as a part of the Health Insurance for the Aged Act but not as part of the Social Security Act which comprises this chapter.

EFFECTIVE DATE

Section applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act provides may be counted for such calendar year, see section 111(e) of Pub. L. 89-97, set out as a note under section 228s-2 of Title 45, Railroads.

CROSS REFERENCES

Definitions, Railroad Retirement Act of 1937, see section 228a of Title 45, Railroads.

Definitions relating to employment, see section 410 of this title.

PART B.—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 303, 603, 907, 1203, 1353, 1383, 1395x, 1395y, 1395*ll*, 1396b of this title; title 26 section 213; title 38 section 503.

§ 1395j. Establishment of supplementary medical insurance program for the aged.

There is hereby established a voluntary insurance program to provide medical insurance benefits in accordance with the provisions of this part for individuals 65 years of age or over who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government. (Aug. 14, 1935, ch. 531, title XVIII, § 1831, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 301.)

STUDY TO DETERMINE FEASIBILITY OF INCLUSION OF CERTAIN ADDITIONAL SERVICES UNDER PART B

Section 141 of Pub. L. 90–248, title I, Jan. 2, 1968, 81 Stat. 855, provided that: "The Secretary shall make a study relating to the inclusion under the supplementary medical insurance program (part B of title XVIII of the Social Security Act [part B of this subchapter]) of services of additional types of licensed practitioners performing health services in independent practice. The Secretary shall make a report to the Congress prior to January 1, 1969, of his finding with respect to the need for covering, under the supplementary medical insurance program, any of the various types of services such practitioners perform and the costs to such program of covering such additional services, and shall make recommendations as to the priority and method for covering these services and the measures that should be adopted to protect the health and safety of the individuals to whom such services would be furnished."

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 213.

§ 1395k. Scope of benefits; definitions.

(a) The benefits provided to an individual by the insurance program established by this part shall consist of—

(1) entitlement to have payment made to him or on his behalf (subject to the provisions of this part) for medical and other health services, except those described in paragraph (2) (B);

(2) entitlement to have payment made on his behalf (subject to the provisions of this part) for—

(A) home health services for up to 100 visits during a calendar year; and

(B) medical and other health services (other than physicians' services unless furnished by a resident or intern of a hospital and the services for which payment may be made pursuant to section 1395n(b)(2) of this title) furnished by a provider of services or by others under arrangements with them made by a provider of services; and

(C) outpatient physical therapy services.

(b) For definitions of "spell of illness", "medical and other health services," and other terms used in this part, see section 1395x of this title. (Aug. 14, 1935, ch. 531, title XVIII, § 1832, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 302, and amended Jan. 2, 1968, Pub. L. 90–248, title I, §§ 129(c)(6)(B), 133(d), 81 Stat. 848, 851.)

AMENDMENTS

1968—Subsec. (a)(2)(B). Pub L. 90–248, § 129(c)(6)(B), inserted "and the services for which payment may be made pursuant to section 1395n(b)(2) of this title" after "hospital".

Subsec. (a)(2)(C). Pub. L. 90–248, § 133(d), added subpar. (C).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2)(B) of this section by section 129(c)(6)(B) of Pub. L. 90–248, applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248 set out as a note under section 1395d of this title.

Section 133(g) of Pub. L. 90–248 provided that: "The amendments made by the preceding subsections of this section [to subsec. (a)(2) of this section and sections 1395n(a)(2), 1395x(p), (s)(2)(D)), 1395aa(a) and 1395cc(e) of this title] shall apply to services furnished after June 30, 1968."

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395*l*, 1395n, 1395gg of this title and in title 26 section 213.

§ 1395*l*. Payment of benefits.

(a) Amounts.

Subject to the succeeding provisions of this section, there shall be paid from the Federal Supplementary Medical Insurance Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part, amounts equal to—

(1) in the case of services described in section 1395k(a)(1) of this title—80 percent of the reasonable charges for the services; except that (A) an organization which provides medical and other health services (or arranges for their availability) on a prepayment basis may elect to be paid 80 percent of the reasonable cost of services for which payment may be made under this part on behalf of individuals enrolled in such organization in lieu of 80 percent of the reasonable charges for such services if the organization undertakes to charge such individuals no more than 20 percent of such reasonable cost plus any amounts payable by them as a result of subsection (b) of this section, and (B) with respect to expenses incurred for radiological or pathological services for which payment may be made under this part, furnished to an inpatient of a hospital by a physician in the field of radiology or pathology, the amounts paid shall be equal to 100 percent of the reasonable charges for such services; and

(2) in the case of services described in section 1395k(a)(2) of this title—80 percent of the reasonable cost of the services (as determined under section 1395x(v) of this title).

(b) Deductible provision.

Before applying subsection (a) of this section with respect to expenses incurred by an individual during any calendar year, the total amount of the expenses incurred by such individual during such year (which would, except for this subsection, constitute incurred

expenses from which benefits payable under subsection (a) of this section are determinable) shall be reduced by a deductible of $50; except that (1) the amount of the deductible for such calendar year as so determined shall first be reduced by the amount of any expenses incurred by such individual in the last three months of the preceding calendar year and applied toward such individual's deductible under this section for such preceding year, and (2) such total amount shall not include expenses incurred for radiological or pathological services furnished to such individual as an inpatient of a hospital by a physician in the field of radiology or pathology. The total amount of the expenses incurred by an individual as determined under the preceding sentence shall, after the reduction specified in such sentence, be further reduced by an amount equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during the calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

(c) Mental disorders.

Notwithstanding any other provision of this part, with respect to expenses incurred in any calendar year in connection with the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital at the time such expenses are incurred, there shall be considered as incurred expenses for purposes of subsections (a) and (b) of this section only whichever of the following amounts is the smaller:

(1) $312.50, or

(2) 62½ percent of such expenses.

(d) Nonduplication of payments.

No payment may be made under this part with respect to any services furnished an individual to the extent that such individual is entitled (or would be entitled except for section 1395e of this title) to have payment made with respect to such services under part A.

(e) Information for determination of amounts due.

No payment shall be made to any provider of services or other person under this part unless there has been furnished such information as may be necessary in order to determine the amounts due such provider or other person under this part for the period with respect to which the amounts are being paid or for any prior period.

(f) Payment for purchase of durable medical equipment.

In the case of the purchase of durable medical equipment included under section 1395x(s)(6) of this title, by or on behalf of an individual, payment shall be made in such amounts as the Secretary determines to be equivalent to payments that would have been made under this part had such equipment been rented and over such period of time as the Secretary finds such equipment would be used for such individual's medical treatment, except that with respect to purchases of inexpensive equipment (as determined by the Secretary) payment may be made in a lump sum if the Secretary finds that such method of payment is less costly or more practical than periodic payments. (Aug. 14, 1935, ch. 531, title XVIII, § 1833, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 302, and amended Jan. 2, 1968, Pub. L. 90–248, title I, §§ 129(c) (7), (8), 131 (a), (b), 132(b), 135(c), 81 Stat. 848–850, 853.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–248, § 131(a) (1), (2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 90–248, §§ 129(c)(7), 131(b), deleted reference in clause (1) to expenses regarded under former clause (2) as incurred for services furnished in last three months of preceding year, deleted former clause (2) which provided that the amount of any deduction imposed by section 1395e(a)(2)(A) of this title for outpatient hospital diagnostic services furnished in any calendar year is to be regarded as an incurred expense for such year; and added clause (2).

Pub. L. 90–248, § 135(c), added last sentence providing that there shall be a deductible equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells as defined under regulations) furnished to an individual during a calendar year which deductible is to be appropriately reduced to the extent that such blood has been replaced, and such blood will be deemed to have been replaced when the institution or person furnishing such blood is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells) furnished the individual to which the three pint deductible applies.

Subsec. (d). Pub. L. 90–248, § 129(c)(8), deleted reference to subsection (a)(2)(A) of section 1395e of this title.

Subsec. (f). Pub. L. 90–248, § 132(b), added subsec. (f).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsecs. (b) and (d) of this section by section 129(c) (7), (8) of Pub. L. 90–248, applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248 set out as a note under section 1395d of this title.

Section 131(c) of Pub. L. 90–248 provided that: "The amendments made by this section [to subsecs. (a)(1) and (b) of this section] shall apply with respect to services furnished after March 31, 1968."

Section 132(c) of Pub. L. 90–248 provided that: "The amendments made by this section [enacting subsec. (f) of this section and amending section 1395x(s)(6) of this title] shall apply only with respect to items purchased after December 31, 1967."

Amendment of subsec. (b) of this section by section 135(c) of Pub. L. 90–248, applicable with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967, see section 135(d) of Pub. L. 90–248 set out as a note under section 1395e of this title.

PROHIBITION AGAINST PAYMENTS IN CASES OF NONENTITLEMENT TO MONTHLY BENEFITS UNDER SUBCHAPTER II OR SUSPENSION OF BENEFITS OF ALIENS OUTSIDE THE UNITED STATES

Section 104(b)(1) of Pub. L. 89-97 provided that: "No payments shall be made under part B of title XVIII of the Social Security Act [this part] with respect to expenses incurred by an individual during any month for which such individual may not be paid monthly benefits under title II of such Act [subchapter II of this chapter] (or for which such monthly benefits would be suspended if he were otherwise entitled thereto) by reason of section 202(t) of such Act [section 402(t) of this title] (relating to suspension of benefits of aliens who are outside the United States)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395n, 1395cc of this title and in title 26 section 213.

§ 1395m. Limitation on home health services.

(a) Payment under this part may be made for home health services furnished an individual during any calendar year only for 100 visits during such year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1395x(m) of this title, shall be determined in accordance with regulations.

(b) For purposes of subsection (a) of this section, home health services shall be taken into account only if payment under this part is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1395n(a) of this title, made with respect to such services. (Aug. 14, 1935, ch. 531, title XVIII, § 1834, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 303.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395n, 1395cc of this title and in title 26 section 213.

§ 1395n. Procedure for payment of claims of providers of services.

(a) Except as provided in subsections (b) and (c) of this section, payment for services described in section 1395k(a)(2) of this title furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc(a) of this title, and only if—

(1) written request, signed by such individual except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulations prescribe; and

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations) that—

(A) in the case of home health services (i) such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this title) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, (ii) a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

(B) in the case of medical and other health services, except services described in subparagraphs (B), (C), and (D) of section 1395x(s)(2) of this title, such services are or were medically required; and

(C) in the case of outpatient physical therapy services, (i) such services are or were required because the individual needed physical therapy services on an outpatient basis, (ii) a plan for furnishing such services has been established, and is periodically reviewed, by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes a certification of the kind provided in subparagraph (A) or (B) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations. For purposes of this section, the term "provider of services" shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1395x(p)(4)(A) of this title, or if, in the case of a public health agency, such agency meets the requirements of section 1395x(p)(4)(B) of this title, but only with respect to the furnishing of outpatient physical therapy services (as therein defined).

(b)(1) Payment may also be made to any hospital for services described in section 1395x(s) of this title furnished as an outpatient service by a hospital or by others under arrangements made by it to an individual entitled to benefits under this part even though such hospital does not have an agreement in effect under this subchapter if (A) such services were emergency services, (B) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has made an election pursuant to section 1395f(d)(1)(C) of this title with respect to the calendar year in which such emergency services are provided. Such payments shall be made only in the amounts provided under section 1395*l*(a)(2) of this title and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 1395cc(a) of this title.

(2) Payment may also be made on the basis of an itemized bill to an individual for services described in paragraph (1) of this subsection if (A) payment cannot be made under such paragraph (1) solely because the hospital does not elect, in accordance with section 1395f(d)(1)(C) of this title, to claim such payments and (B) such individual files application (submitted within such time and in such form and manner, and containing and supported by such information as the Secretary shall by regulations

prescribe) for reimbursement. The amounts payable under this paragraph shall, subject to the provisions of section 1395*l* of this title, be equal to 80 percent of the hospital's reasonable charges for such services.

(c) Notwthstanding the provisions of this section and sections 1395k, 1395*l*, and 1395cc(a)(1)(A) of this title, a hospital may, subject to such limitations as may be prescribed by regulations, collect from an individual the customary charges for services specified in section 1395x(s) of this title and furnished to him by such hospital as an outpatient, but only if such charges for such services do not exceed $50, and such customary charges shall be regarded as expenses incurred by such individual with respect to which benefits are payable in accordance with section 1395*l*(a)(1) of this title. Payments under this subchapter to hospitals which have elected to make collections from individuals in accordance with the preceding sentence shall be adjusted periodically to place the hospital in the same position it would have been had it instead been reimbursed in accordance with section 1395*l*(a)(2) of this title.

(d) No payment may be made under this part to any Federal provider of services or other Federal agency, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services or other person for any item or service which such provider or person is obligated by a law of, or a contract with, the United States to render at public expense. (Aug. 14, 1935, ch. 531, title XVIII, § 1835, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 303, and amended Jan. 2, 1968, Pub. L. 90–248, title I, §§ 126(b), 129(c)(9) (A), (B), 130 (a), (b), 133(e), 81 Stat. 846, 848, 849, 851.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, §§ 129(c)(9)(A), 130(a), inserted introductory exception phrase and included reference therein to subsec. (c), respectively.

Subsec. (a)(2). Pub. L. 90–248, § 133(e)(5), added last sentence defining the term "provider of services".

Subsec. (a)(2)(B). Pub. L. 90–248, §§ 126(b), 133 (e)(4) inserted "except services described in subparagraphs (B) and (C) of section 1395x(s)(2) of this title," after "health services," and added reference to subpar. (d).

Subsec. (a)(2)(C). Pub. L. 90–248, § 133(e)(1)—(3), added subpar. (C).

Subsec. (b). Pub. L. 90–248, § 129(c)(9)(B), added subsec. (b). Former subsec. (b) redesignated (c), in turn redesignated (d).

Subsec. (c). Pub. L. 90–248, § 130(b), added subsec. (c). Former subsec. (c), previously designated (b), redesignated (d).

Subsec. (d). Pub. L. 90–248, §§ 129(c)(9)(B), 130(b), redesignated former subsec. (b) as (c), in turn as (d), respectively.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec.(a)(2)(B) by section 126(b) of Pub. L. 90–248 applicable with respect to services furnished after Jan. 2, 1968, see section 126(c) of Pub. L. 90–248, set out as a note under section 1395f of this title.

Amendment of subsecs. (a)—(c) of this section by section 129(c)(9)(A), (B) of Pub. L. 90–248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248, set out as a note under section 1395d of this title.

Section 130(c) of Pub. L. 90–248 provided that: "The amendments made by this section [enacting subsec. (c) of this section] shall apply with respect to services furnished after March 31, 1968."

Amendment of subsec. (a) of this section by section 133(e) of Pub. L. 90–248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90–248, set out as a note under section 1395k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395f, 1395k, 1395m, 1395x of this title and in title 26 section 213.

§ 1395o. Eligible individuals.

Every individual who—

(1) has attained the age of 65, and

(2)(A) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part, or (B) is entitled to hospital insurance benefits under part A,

is eligible to enroll in the insurance program established by this part. (Aug. 14, 1935, ch. 531, title XVIII, § 1836, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 304.)

PERSONS CONVICTED OF SUBVERSIVE ACTIVITIES

Section 104(b)(2) of Pub. L. 89–97 provided that: "An individual who has been convicted of any offense under (A) chapter 37 [section 791 et seq. of Title 18] (relating to espionage and censorship), chapter 105 [section 2151 et seq. of Title 18] (relating to sabotage), or chapter 115 [section 2381 et seq. of Title 18] (relating to treason, sedition, and subversive activities) of Title 18 of the United States Code, or (B) section 4, 112, or 113 of the Internal Security Act of 1950, as amended [section 783, 822, or 823 of Title 50], may not enroll under part B of title XVIII of the Social Security Act [this part]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395p, 1395q, 1395v of this title and in title 26 section 213.

§ 1395p. Enrollment periods.

(a) Generally; regulations.

An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b) Limitations.

(1) No individual may enroll for the first time under this part unless he does so in a general enrollment period (as provided in subsection (e) of this section) which begins within 3 years after the close of the first enrollment period during which he could have enrolled under this part.

(2) An individual whose enrollment under this part has terminated may not enroll for the second time under this part unless he does so in a general enrollment period (as provided in subsection (e) of this section) which begins within 3 years after the effective date of such termination. No individual may enroll under this part more than twice.

(c) Initial general enrollment period; eligible individuals before March 1, 1966.

In the case of individuals who first satisfy paragraphs (1) and (2) of section 1395o of this title before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after July 30, 1965 and shall end on May 31, 1966. For purposes of this subsection

and subsection (d) of this section, an individual who satisfies paragraph (2) of section 1395o of this title solely by reason of subparagraph (B) thereof shall be treated as satisfying such paragraph (2) on the first day on which he is (or on filing application would be) entitled to hospital insurance benefits under part A.

(d) Same; eligible individuals on or after March 1, 1966.

In the case of an individual who first satisfies paragraphs (1) and (2) of section 1395o of this title on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later. Where the Secretary finds that an individual who has attained age 65 failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the month in which such individual attained age 65), because such individual (relying on documentary evidence) was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on his attaining age 65 at the time shown in such documentary evidence (with a coverage period determined under section 1395q of this title as though he had attained such age at that time).

(e) General enrollment periods.

There shall be a general enrollment period, after the period described in subsection (c) of this section, during the period beginning on January 1 and ending on March 31 of each year beginning with 1969. (Aug. 14, 1935, ch. 531, title XVIII, § 1837, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 304, and amended Apr. 8, 1966, Pub. L. 89–384, § 3 (a), (b), 80 Stat. 105; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 136(a), 145 (a), (b), 81 Stat. 853, 859.)

AMENDMENTS

1968—Subsec. (b)(1). Pub. L. 90–248, § 145(a), permitted an individual enrolling in the supplementary medical insurance program for the first time to enroll at any time in a general enrollment period which begins within 3 years of the close of his initial enrollment period.

Subsec. (d). Pub. L. 90–248, § 136(a), added last sentence providing that if an individual who has attained age 65 failed to enroll in the program because, relying on erroneous documentary evidence, he was mistaken about his age, he may enroll using the date of attainment of age 65 that he alleges under the documentary evidence.

Subsec. (e). Pub. L. 90–248, § 145(b), provided for an annual general enrollment period for the supplementary medical insurance program beginning Jan. 1 and ending March 31 of each year, commencing in 1969.

1966—Subsec. (c). Pub. L. 89–384, § 3(a), delayed the eligibility date from January 1, 1966, to March 1, 1966, and the closing date for the enrollment period from March 31, 1966, to May 31, 1966.

Subsec. (d). Pub. L. 89–384, § 3(b), substituted March 1, 1966, for January 1, 1966.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 136(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to subsec. (d) of this section] shall apply to individuals enrolling under part B of title XVIII [part B of this subchapter] in months beginning after the date of the enactment of this Act [Jan. 2, 1968]."

Section 145(e) of Pub. L. 90–248 provided that: "The amendments made by subsections (a), (b), and (c) [amending subsecs. (b)(1) and (e) of this section and section 1395q(b) of this title] shall become effective April 1, 1968. Notwithstanding the provisions of section 2 of Public Law 90–97, the amendments made by subsection (d) [to section 1395r(b) of this title] shall become effective December 1, 1968."

EXTENSION THROUGH MARCH 31, 1968 OF 1967 GENERAL ENROLLMENT PERIOD

Pub. L. 90–97, § 1, Sept. 30, 1967, 81 Stat. 249, provided: "That the general enrollment period under section 1837 (e) of the Social Security Act [subsec. (e) of this section] beginning October 1, 1967, and ending December 31, 1967, shall, for purposes of enrolling in the insurance program established under part B of title XVIII of such Act [this part] and of terminating such enrollment as provided in section 1838(b)(1) of such Act [section 1395q(b)(1) of this title], be extended through March 31, 1968."

ENROLLMENT BEFORE OCT. 1, 1966, OF ELIGIBLE INDIVIDUALS FAILING FOR GOOD CAUSE TO ENROLL BEFORE JUNE 1, 1966; COMMENCEMENT OF COVERAGE PERIOD

Section 102(b) of Pub. L. 89–97, as amended by section 3(c) of Pub. L. 89–384, provided that:

"If—

"(1) an individual was eligible to enroll under section 1837(c) of the Social Security Act [subsec. (c) of this section] before June 1, 1966, but failed to enroll before such date, and

"(2) it is shown to the satisfaction of the Secretary of Health, Education, and Welfare that there was good cause for such failure to enroll before June 1, 1966,

such individual may enroll pursuant to this subsection at any time before October 1, 1966. The determination of what constitutes good cause for purposes of the preceding sentence shall be made in accordance with regulations of the Secretary. In the case of any individual who enrolls pursuant to this subsection, the coverage period (within the meaning of section 1838 of the Social Security Act [section 1395q of this title]) shall begin on the first day of the 6th month after the month in which he enrolls."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395q, 1395r, 1395v of this title and in title 26 section 213.

§ 1395q. Coverage period.

(a) The period during which an individual is entitled to benefits under the insurance program established by this part (hereinafter referred to as his "coverage period") shall begin on whichever of the following is the latest:

(1) July 1, 1966; or

(2)(A) in the case of an individual who enrolls pursuant to subsection (d) of section 1395p of this title before the month in which he first satisfies paragraphs (1) and (2) of section 1395o of this title, the first day of such month, or

(B) in the case of an individual who enrolls pursuant to such subsection (d) in the month in which he first satisfies such paragraphs, the first day of the month following the month in which he so enrolls, or

(C) in the case of an individual who enrolls pursuant to such subsection (d) in the month following the month in which he first satisfies such paragraphs, the first day of the second month following the month in which he so enrolls, or

(D) in the case of an individual who enrolls pursuant to such subsection (d) more than one month following the month in which he satisfies such paragraphs, the first day of the third month following the month in which he so enrolls, or

(E) in the case of an individual who enrolls pursuant to subsection (e) of section 1395p of this title, the July 1 following the month in which he so enrolls.

(b) An individual's coverage period shall continue until his enrollment has been terminated—

(1) by the filing of notice that the individual no longer wishes to participate in the insurance program established by this part, or

(2) for nonpayment of premiums.

The termination of a coverage period under paragraph (1) shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed. The termination of a coverage period under paragraph (2) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period (not in excess of 90 days) in which overdue premiums may be paid and coverage continued.

(c) No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to him, is a coverage period. (Aug. 14, 1935, ch. 531, title XVIII, § 1838, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 305, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 145(c), 81 Stat. 859.)

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–248 deleted ", during a general enrollment period described in section 1395p(e) of this title," following "notice" in par. (1), and substituted in first sentence following par. (2) "the calendar quarter following the calendar quarter" for "December 31 of the year".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–248 effective Apr. 1, 1968, see section 145(e) of Pub. L. 90–248, set out as a note under section 1395p of this title.

COVERAGE PERIOD; TERMINATION DATES

Pub. L. 90–97, § 3(a), Sept. 30, 1967, 81 Stat. 249, provided that:

"In the case of any individual who, pursuant to section 1838(b)(1) of the Social Security Act [subsec. (b)(1) of this section], terminates his enrollment in the insurance program established under part B of title XVIII of such Act [this part], his coverage period (as defined in section 1838(a) of such Act) [subsec. (a) of this section]—

"(1) shall terminate at the close of December 31, 1967, if he filed his notice of termination before January 1, 1968, or

"(2) shall terminate at the close of March 31, 1968, if he filed his notice of termination after December 31, 1967, and before April 1, 1968.

An individual whose coverage period terminated pursuant to paragraph (1) at the close of December 31, 1967, may, notwithstanding section 1837(b)(2) of such Act [section 1395p(b)(2) of this title], enroll in such program before April 1, 1968, and for purposes of sections 1838(a)(2)(E) [subsec. (a)(2)(E) of this section] and 1837(b)(2) of such Act [section 1395p(b)(2) of this title] such enrollment shall be deemed an enrollment under section 1837(e) of such Act [section 1395p(e) of this title] and a second enrollment under such part."

EXTENSION OF 1967 GENERAL ENROLLMENT PERIOD THROUGH MARCH 31, 1968

Extension of the general enrollment period under section 1395p(e) of this title through March 31, 1968, see section 1 of Pub. L. 90–97, Sept. 30, 1967, 81 Stat. 249, set out as a note under section 1395p of this title.

COVERAGE PERIOD FOR INDIVIDUALS BECOMING ELIGIBLE IN MARCH 1966 WHO ENROLL IN MAY 1966

Pub. L. 89–384, § 3(d), Apr. 8, 1966, 80 Stat. 105, provided that: "In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act [section 1395o of this title] in March, 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act [section 1395p of this title] in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act [subsec. (a)(2)(D) of this section], begin on July 1, 1966."

COMMENCEMENT OF COVERAGE PERIOD OF CERTAIN ENROLLEES

Commencement of coverage period upon enrollment before Oct. 1, 1966 of eligible individuals failing for good cause to enroll before June 1, 1966, see section 102(b) of Pub. L. 89–97, set out as a note under section 1395p of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395p of this title and title 26 section 213.

§ 1395r. Amounts of premiums.

(a) The monthly premium of each individual enrolled under this part for each month before 1968 shall be $3.

(b)(1) The monthly premium of each individual enrolled under this part of each month after 1967 shall be the amount determined under paragraph (2).

(2) The Secretary shall, during December 1968 and of each year thereafter, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 in each succeeding year. Such dollar amount shall be such amount as the Secretary estimates to be necessary so that the aggregate premiums for such 12-month period will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for such 12-month period. In estimating aggregate benefits payable for any period, the Secretary shall include an appropriate amount for a contingency margin. Whenever the Secretary, pursuant to the preceding sentence, promulgates the dollar amount which shall be applicable for premiums for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the acturial assumptions and bases employed by him in arriving at the amount of premiums so promulgated.

(c) In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to subsection (c) or (d) of section 1395p of this title), the monthly premium determined under subsection (b) of this section shall be increased by 10 percent of the monthly premium so determined for each full 12 months in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account (1) the months which elapsed between the close of his initial enrollment period and the close of the enrollment period in which he enrolled, plus (in the case of an individual who enrolls for a second time) (2) the months which elapsed between the date of the termination of his first coverage period and the close of the enrollment period in which he enrolled for the second time.

(d) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents. (Aug. 14, 1935, ch. 531, title XVIII, § 1839, as added July 30, 1965,

Pub. L. 89-97, title I, § 102(a), 79 Stat. 305, and amended Jan. 2, 1968, Pub. L. 90-248, title I, § 145 (d), 81 Stat. 859.)

AMENDMENTS

1968—Subsec. (b)(2). Pub. L. 90-248 provided that the Secretary shall, during December of each year, beginning in 1968, determine and announce the amount (whether or not such amount was applicable for premiums for any prior month) of the supplementary medical insurance premium for the twelve month period beginning on July 1 of each following year, which premium is to be such that the aggregate premiums will equal one-half the estimated benefit and administrative expenses of the supplementary medical insurance program for such twelve month period, and that at the time of announcement of the premium amount, the Secretary must make public the actuarial assumptions and bases used in deciding the amount of the premium.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 effective Dec. 1, 1968, see section 145(e) of Pub. L. 90-248, set out as a note under section 1395p of this title.

DETERMINATION OF PREMIUM AMOUNTS BY SECRETARY

Pub. L. 90-97, § 2, Sept. 30, 1967, 81 Stat. 249, provided that:

"Notwithstanding the provisions of section 1839 (a) and (b) of the Social Security Act [subsecs. (a) and (b) of this section]—

"(1) the dollar amount applicable for premiums under part B of title XVIII of such Act [this part] for each month before April 1968 shall be $3, and

"(2) the Secretary of Health, Education, and Welfare may determine and promulgate such dollar amount for months after March 1968 and before January 1970 at any time on or before December 31, 1967."

PERSONS ENROLLING BEFORE APRIL 1, 1968 WHO DID NOT ENROLL DURING THEIR INITIAL ENROLLMENT PERIOD

Pub. L. 90-97, § 3(b), Sept. 30, 1967, 81 Stat. 250, provided that: "In the case of any individual who did not enroll in the insurance program established under part B of title XVIII of the Social Security Act [this part] in his initial enrollment period, but does so enroll before April 1, 1968, the enrollment period in which he so enrolls shall, for purposes of section 1839(c) of such Act [subsec. (c) of this section], be deemed to have closed on December 31, 1967."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395v of this title and in title 26 section 213.

§ 1395s. Payment of premiums.

(a) (1) In the case of an individual who is entitled to monthly benefits under section 402 of this title, his monthly premiums under this part shall (except as provided in subsection (d) of this section) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as the Secretary shall by regulation prescribe.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 402 of this title which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(b) (1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937, his monthly premiums under this part shall (except as provided in subsection (d) of this section) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(c) In the case of an individual who is entitled both to monthly benefits under section 402 of this title and to an annuity or pension under the Railroad Retirement Act of 1937 at the time he enrolls under this part, subsection (a) of this section shall apply so long as he continues to be entitled both to such benefits and such annuity or pension. In the case of an individual who become entitled both to such benefits and such an annuity or pension after he enrolls under this part, subsection (a) of this section shall apply if the first month for which he was entitled to such benefits was the same as or earlier than the first month for which he was entitled to such annuity or pension, and otherwise subsection (b) of this section shall apply.

(d) If an individual to whom subsection (a) or (b) of this section applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(e) (1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of Title 5 or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) of this section applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (a) nor subsection (b) of this section applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Civil Service Commission shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in

section 8903 of Title 5 may reimburse each annuitant enrolled in such plan an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(f) In the case of an individual who participates in the insurance program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (d) of this section applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

(g) Amounts paid to the Secretary under subsection (d) or (f) of this section shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.

(h) In the case of an individual who participates in the insurance program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1395v of this title is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1395v(d) of this title. (Aug. 14, 1935, ch. 531, title XVIII, § 1840, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 306, and amended Apr. 8, 1966, Pub. L. 89-384, § 4(c), 80 Stat. 106; Jan. 2, 1968, Pub. L. 90-248, title I, § 166, title IV, § 403(g), 81 Stat. 874, 932.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsecs. (b)(1), (c), is classified to sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of Title 45, Railroads.

AMENDMENTS

1968—Subsec. (e). Pub. L. 90-248 provided for reimbursement of civil service retirement annuitants for certain premium payments under the supplementary medical insurance program, and substituted "subchapter III of chapter 83 of Title 5 or any other law" and "such other law" for "the Civil Service Retirement Act, or other Act" and "such other Act", in pars. (1) and (2), respectively.

1966—Subsec. (i). Pub. L. 89-384 added subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 428, 1396t of this title and in title 26 section 213.

§ 1395t. Federal Supplementary Medical Insurance Trust Fund.

(a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Supplementary Medical Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued

for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1395gg(b) of this title. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1395gg(b) of this title.

(g) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 401(g)(1) of this title.

(h) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Civil Service Commission in making deductions pursuant to section 1395s(e) of this title. During each fiscal year, or after the close of such fiscal year, the Civil Service Commission shall certify to the Secretary the amount of the costs it incurred in making such deductions, and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee. (Aug. 14, 1935, ch. 531, title XVIII, § 1841, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 308, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 169(a), 81 Stat. 875.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (c), is act Sept. 24, 1917, c. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, and sections 757c–2, 757c–3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1968—Subsec. (b)(2). Pub. L. 90–248 substituted "April" for "March".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395gg of this title and in title 26 section 213.

§ 1395u. Use of carriers for administration of benefits.

(a) In order to provide for the administration of the benefits under this part with maximum efficiency and convenience for individuals entitled to benefits under this part and for providers of services and other persons furnishing services to such individuals, and with a view to furthering coordination of the administration of the benefits under part A and under this part, the Secretary is authorized to enter into contracts with carriers, including carriers with which agreements under section 1395h of this title are in effect, which will perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations); and, with respect to any of the following functions which involve payments for physicians' services, the Secretary shall to the extent possible enter into such contracts:

(1)(A) make determinations of the rates and amounts of payments required pursuant to this part to be made to providers of services and other persons on a reasonable cost or reasonable charge basis (as may be applicable);

(B) receive, disburse, and account for funds in making such payments; and

(C) make such audits of the records of providers of services as may be necessary to assure that proper payments are made under this part;

(2)(A) determine compliance with the requirements of section 1395x(k) of this title as to utilization review; and

(B) assist providers of services and other persons who furnish services for which payment may be made under this part in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, assist in the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to benefits under this part, and provide procedures for and assist in arranging, where necessary, the establishment of groups outside hospitals (meeting the requirements of section 1395x(k)(2) of this title to make reviews of utilization;

(3) serve as a channel of communication of information relating to the administration of this part; and

(4) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this part.

(b)(1) Contracts with carriers under subsection (a) of this section may be entered into without regard to section 5 of Title 41 or any other provision of law requiring competitive bidding.

(2) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and to other matters as he finds pertinent.

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1395x(v) of this title;

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1395g(f) of this title) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which the reasonable charge is the full charge for the service;

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

(4) Each contract under this section shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the carrier involved as he may provide in regulations) if he finds that the carrier has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the insurance program established by this part.

(c) Any contract entered into with a carrier under this section shall provide for advances of funds to the carrier for the making of payments by it under this part, and shall provide for payment of the cost of administration of the carrier, as determined by the Secretary to be necessary and proper for carrying out the functions covered by the contract.

(d) Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(e)(1) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

(3) No such carrier shall be liable to the United States for any payments referred to in paragraph (1) or (2).

(f) For purposes of this part, the term "carrier" means—

(1) with respect to providers of services and other persons, a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization; and

(2) with respect to providers of services only, any agency or organization (not described in paragraph (1) with which an agreement is in effect under section 1395h of this title.

(Aug. 14, 1935, ch. 531, title XVIII, § 1842, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 309, and amended Jan. 2, 1968, Pub. L. 90–248, title I, §§ 125(a), 154(d), 81 Stat. 845, 863.)

AMENDMENTS

1968—Subsec. (b)(3)(B). Pub. L. 90–248 provided that payment be made on the basis of an itemized bill instead of a receipted bill as formerly required, and established a time limit within which payment may be requested, and inserted "(except as otherwise provided in section 1395gg (f) of this title)" after "payment will".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 125(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [to subsec. (b)(3)(B) of this section] shall apply with respect to claims on which a final determination has not been made on or before the date of enactment of this Act [Jan. 2, 1968]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395v of this title and in title 26 section 213.

§ 1395v. State agreements for coverage of eligible individuals who are receiving money payments under public assistance programs or are eligible for medical assistance.

(a) The Secretary shall, at the request of a State made before January 1, 1970, enter into an agreement with such State pursuant to which all eligible individuals in either of the coverage groups described in subsection (b) of this section (as specified in the agreement) will be enrolled under the program established by this part.

(b) An agreement entered into with any State pursuant to subsection (a) of this section may be applicable to either of the following coverage groups:

(1) individuals receiving money payments under the plan of such State approved under subchapter I or XVI of this chapter; or

(2) individuals receiving money payments under all of the plans of such State approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter;

except as provided in subsection (g) of this section, there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under subchapter II of this chapter or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937.

(c) For purposes of this section, an individual shall be treated as an eligible individual only if he is an eligible individual (within the meaning of section 1395o of this title) on the date an agreement covering him is entered into under subsection (a) of this section or he becomes an eligible individual (within the meaning of such section) at any time after such date; and he shall be treated as receiving money payments described in subsection (b) of this section if he receives such payments for the month in which the agreement is entered into or any month thereafter.

(d) In the case of any individual enrolled pursuant to this section—

(1) the monthly premium to be paid by the State shall be determined under section 1395r of this title (without any increase under subsection (c) thereof);

(2) his coverage period shall begin on whichever of the following is the latest:

(A) July 1, 1966;

(B) the first day of the third month following the month in which the State agreement is entered into;

(C) the first day of the first month in which he is both an eligible individual and a member of a coverage group specified in the agreement under this section; or

(D) such date as may be specified in the agreement; and

(3) his coverage period attributable to the agreement with the State under this section shall end on the last day of whichever of the following first occurs:

(A) the month in which he is determined by the State agency to have become ineligible both for money payments of a kind specified in the agreement and (if there is in effect a modification entered into under subsection (h) of this section) for medical assistance, or

(B) the month preceding the first month for which he becomes entitled to monthly benefits under subchapter II of this chapter or to an annuity or pension under the Railroad Retirement Act of 1937.

(e) Any individual whose coverage period attributable to the State agreement is terminated pursuant to subsection (d)(3) of this section shall be deemed for purposes of this part (including the continuation of his coverage period under this part) to have enrolled under section 1395p of this title in the initial general enrollment period provided by section 1395p(c) of this title.

(f) With respect to eligible individuals receiving money payments under the plan of a State approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, or eligible to receive medical assistance under the plan of such State approved under subchapter XIX of this chapter, if the agreement entered into under this section so provides, the term "carrier" as defined in section 1395u(f) of this title also includes the State agency, specified in such agreement, which administers or supervises the administration of the plan of such State approved under subchapter I, XVI, or XIX of this chapter. The agreement shall also contain such provisions as will facilitate the financial transactions of the State and the carrier with respect to deductions, coinsurance, and otherwise, and as will lead to economy and efficiency of operation, with respect to individuals receiving money payments under plans of the State approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter and individuals eligible to receive medical assistance under the plan of the State approved under subchapter XIX of this chapter.

(g)(1) The Secretary shall, at the request of a State made before January 1, 1970, enter into a modification of an agreement entered into with such State pursuant to subsection (a) of this section under which the second sentence of subsection (b) of this section shall not apply with respect to such agreement.

(2) In the case of any individual who would (but for this subsection) be excluded from the applicable

coverage group described in subsection (b) of this section by the second sentence of such subsection—

(A) subsections (c) and (d)(2) of this section shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a) of this section),

(B) subsection (d)(3)(B) of this section shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

(C) notwithstanding subsection (e) of this section, in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).

(h)(1) The Secretary shall, at the request of a State made before January 1, 1970, enter into a modification of an agreement entered into with such State pursuant to subsection (a) of this section under which the coverage group described in subsection (b) of this section and specified in such agreement is broadened to include individuals who are eligible to receive medical assistance under the plan of such State approved under subchapter XIX of this chapter.

(2) For purposes of this section, an individual shall be treated as eligible to receive medical assistance under the plan of the State approved under subchapter XIX of this chapter if, for the month in which the modification is entered into under this subsection or for any month thereafter, he has been determined to be eligible to receive medical assistance under such plan. In the case of any individual who would (but for this subsection) be excluded from the agreement subsections (c) and (d)(2) of this section shall be applied as if they referred to the modification under this subsection (in lieu of the agreement under subsection (a) of this section), and subsection (d)(2)(C) of this section shall be applied by substituting "second month following the first month" for "first month". (Aug. 14, 1935, ch. 531, title XVIII, § 1843, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 312, and amended Apr. 8, 1966, Pub. L. 89–384, § 4 (a), (b), 80 Stat. 105; Jan. 2, 1968, Pub. L. 90–248, title II, §§ 222 (a), (b), (e), 241(e), 81 Stat. 900, 901, 917.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsecs. (b), (d)(3)(B), is classified to sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of Title 45, Railroads.

AMENDMENTS

1968—Pub. L. 90–248, § 222(b)(4), added to the catchline "(or are eligible for medical assistance)".

Subsec. (a). Pub. L. 90–248, § 222(e)(1), substituted "1970" for "1968".

Subsec. (b)(2). Pub. L. 90–248, § 241(e)(1), deleted "IV," following "I," and inserted ", and part A of subchapter IV of this chapter" after "XVI of this chapter".

Subsec. (c). Pub. L. 90–248, § 222(e)(2), struck out "and before January 1, 1968" following "such date" and "before January 1968" following "thereafter" just before the period.

Subsec. (d)(2)(D). Pub. L. 90–248, § 222(e)(3), struck out "(not later than January 1, 1968)" following "such date".

Subsec. (d)(3)(A). Pub. L. 90–248, § 222(b)(1), substituted "ineligible both for money payments of a kind specified in the agreement and (if there is in effect a modification entered into under subsection (h) of this section) for medical assistance" for "ineligible for money payments of a kind specified in the agreement".

Subsec. (f). Pub. L. 90–248, § 222(b)(2), inserted "or eligible to receive medical assistance under the plan of such State approved under subchapter XIX of this chapter" and ", and individuals eligible to receive medical assistance under the plan of the State approved under subchapter XIX of this chapter" following "or part A of subchapter IV of this chapter" and ", and part A of subchapter IV of this chapter", respectively.

Pub. L. 90–248, § 241(e)(2), deleted "IV," preceding "X," in two instances, and inserted "or part A of subchapter IV of this chapter," after "XVI of this chapter," the first place it appears in the first sentence and ", and part A of subchapter IV of this chapter" after "XVI of this chapter" in the second sentence.

Subsec. (g)(1). Pub. L. 90–248, § 222(b)(3), substituted "1970" for "1968".

Subsec. (h). Pub. L. 90–248, § 222(a), added subsec. (h).

1966—Subsec. (b). Pub. L. 89–384, § 4(a), inserted a reference to subsec. (g) in the exclusionary provision.

Subsec. (g). Pub. L. 89–384, § 4(b), added subsec. (g).

DISTRICT OF COLUMBIA; AGREEMENT OF COMMISSIONER WITH SECRETARY FOR SUPPLEMENTARY MEDICAL INSURANCE

Pub. L. 90–227, § 2, Dec. 27, 1967, 81 Stat. 745, provided that: "The Commissioner may enter into an agreement (and any modifications of such agreement) with the Secretary under section 1843 of the Social Security Act [this section] pursuant to which (1) eligible individuals (as defined in section 1836 of the Social Security Act) [section 1395o of this title] who are eligible to receive medical assistance under the District of Columbia's plan for medical assistance approved under title XIX of the Social Security Act [subchapter XIX of this chapter] will be enrolled in the supplementary medical insurance program established under part B of title XVIII of the Social Security Act [this Part], and (2) provisions will be made for payment of the monthly premiums of such individuals for such program."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395s of this title and in title 26 section 213.

§ 1395w. Appropriations to cover Government contributions and contingency reserve.

(a) There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund—

(1) a Government contribution equal to the aggregate premiums payable under this part and deposited in the Trust Fund, and

(2) such sums as the Secretary deems necessary to place the Trust Fund, at the end of any fiscal year occurring after June 30, 1967, in the same position in which it would have been at the end of such fiscal year if (A) a Government contribution representing the excess of the premiums deposited in the Trust Fund during the fiscal year ending June 30, 1967, over the Government contribution actually appropriated to the Trust Fund during such fiscal year had been appropriated to it on June 30, 1967, and (B) the Government contribution for premiums deposited in the Trust Fund after June 30, 1967, had been appropriated to it when such premiums were deposited.

(b) In order to assure prompt payment of benefits provided under this part and the administrative expenses thereunder during the early months of the program established by this part, and to provide a contingency reserve, there is also authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through the calendar year 1969 for repayable advances (without interest) to the Trust Fund, an amount equal to $18 multiplied by the number of individuals (as estimated by the Secretary) who could be covered in July 1966 by the insurance program established by this part if they had theretofore enrolled under this part. (Aug. 14, 1935, ch. 531, title XVIII, § 1844, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 313, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 167, 81 Stat. 874.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 167(a), designated existing provisions as par. (1), provided therein for deposit of Government contribution in the Trust Fund, and added par. (2).

Subsec. (b). Pub. L. 90–248, § 167(b), substituted "1969" for "1967".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395s of this title and in title 26 section 213.

PART C.—MISCELLANEOUS PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 426 of this title.

§ 1395x. Definitions.

For purposes of this subchapter.

(a) Spell of illness.

The term "spell of illness" with respect to any individual means a period of consecutive days—

(1) beginning with the first day (not included in a previous spell of illness) (A) on which such individual is furnished inpatient hospital services or extended care services, and (B) which occurs in a month for which he is entitled to benefits under part A, and

(2) ending with the close of the first period of 60 consecutive days thereafter on each of which he is neither an inpatient of a hospital nor an inpatient of an extended care facility.

(b) Inpatient hospital services.

The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients; and

(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

excluding, however—

(4) medical or surgical services provided by a physician, resident, or intern; and

(5) the services of a private-duty nurse or other private-duty attendant.

Paragraph (4) shall not apply to services provided in the hospital by an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association or, in the case of an osteopathic hospital, approved by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, or, in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of dentistry, approved by the Council on Dental Education of the American Dental Association.

(c) Inpatient psychiatric hospital services.

The term "inpatient psychiatric hospital services" means inpatient hospital services furnished to an inpatient of a psychiatric hospital.

(d) Inpatient tuberculosis hospital services.

The term "inpatient tuberculosis hospital services" means inpatient hospital services furnished to an inpatient of a tuberculosis hospital.

(e) Hospital.

The term "hospital" (except for purposes of sections 1395f(d) and 1395n(b) of this title, subsection (a)(2) of this section, paragraph (7) of this subsection, and subsections (i) and (n) of this section) means an institution which—

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times; except that until January 1, 1976, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of twenty-four-hour nursing service rendered or supervised by a registered professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided, during at least the regular daytime shift), where immediately preceding such one-year period he finds that—

(A) such institution is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein,

(B) the failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individuals, and

(C) such institution has made and continues to make a good faith effort to comply with this paragraph, but such compliance is impeded by the lack of qualified nursing personnel in such area;

(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k) of this section;

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing; and

(8) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution, except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals (subject to the second sentence of section 1395z of this title).

For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this subsection. For purposes of section 1395f(d) and 1395n(b) of this title (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections), and subsections (i) and (n) of this section, such term includes any institution which (i) meets the requirements of paragraphs (5) and (7) of this subsection, (ii) is not primarily engaged in providing the services described in section 1395x(j)(1)(A) of this title and (iii) is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of section 1395x(r) of this title, to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons. Notwithstanding the preceding provisions of this subsection, such term shall not, except for purposes of subsection (a)(2) of this section, include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g) of this section) or unless it is a psychiatric hospital (as defined in subsection (f) of this section). The term "hospital" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations. For provisions deeming certain requirements of this subsection to be met in the case of accredited institutions, see section 1395bb of this title.

(f) Psychiatric hospital.

The term "psychiatric hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(2) satisfies the requirements of paragraphs (3) through (8) of subsection (e) of this section;

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under part A;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

(g) Tuberculosis hospital.

The term "tuberculosis hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

(2) satisfies the requirements of paragraphs (3) through (8) of subsection (e) of this section;

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals covered by the insurance program established by part A;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such

distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

(h) Extended care services.

The term "extended care services" means the following items and services furnished to an inpatient of an extended care facility and (except as provided in paragraphs (3) and (6)) by such extended care facility—

(1) nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by the extended care facility or by others under arrangements with them made by the facility;

(4) medical social services;

(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the extended care facility, as are ordinarily furnished by such facility for the care and treatment of inpatients;

(6) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (*l*) of this section), under a teaching program of such hospital approved as provided in the last sentence of subsection (b) of this section, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(7) such other services necessary to the health of the patients as are generally provided by extended care facilities;

excluding, however, any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital.

(i) Post-hospital extended care services.

The term "post-hospital extended care services" means extended care services furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentence, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and he shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if he is admitted to the extended care facility within 14 days after discharge from such hospital; and an individual shall be deemed not to have been discharged from an extended care facility if, within 14 days after discharge therefrom, he is admitted to such facility or any other extended care facility.

(j) Extended care facility.

The term "extended care facility" means (except for purposes of subsection (a)(2) of this section) an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (*l*) of this section) with one or more hospitals having agreements in effect under section 1395cc of this title and which—

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(4) (A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necesary medical care in case of emergency;

(5) maintains clinical records on all patients;

(6) provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(8) has in effect a utilization review plan which meets the requirements of subsection (k) of this section;

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(10) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary (subject to the second sentence of section 1395z of this title);

except that such term shall not (other than for purposes of subsection (a)(2) of this section) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a)(2) of this section), such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term "extended care facility" also includes an institution described in paragraph (1) of subsection (y) of this section, to the extent and subject to the limitations provided in such subsection.

(k) Utilization review.

A utilization review plan of a hospital or extended care facility shall be considered sufficient if it is applicable to services furnished by the institution to individuals entitled to insurance benefits under this subchapter and if it provides—

(1) for the review, on a sample or other basis, of admissions to the institution, the duration of

stays therein, and the professional services (including drugs and biologicals) furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services;

(2) for such review to be made by either (A) a staff committee of the institution composed of two or more physicians, with or without participation of other professional personnel, or (B) a group outside the institution which is similarly composed and (i) which is established by the local medical society and some or all of the hospitals and extended care facilities in the locality, or (ii) if (and for as long as) there has not been established such a group which serves such institution, which is established in such other manner as may be approved by the Secretary;

(3) for such review, in each case of inpatient hospital services or extended care services furnished to such an individual during a continuous period of extended duration, as of such days of such period (which may differ for different classes of cases) as may be specified in regulations, with such review to be made as promptly as possible, after each day so specified, and in no event later than one week following such day; and

(4) for prompt notification to the institution, the individual, and his attending physician of any finding (made after opportunity for consultation to such attending physician) by the physician members of such committee or group that any further stay in the institution is not medically necessary.

The review committee must be composed as provided in clause (B) of paragraph (2) rather than as provided in clause (A) of such paragraph in the case of any hospital or extended care facility where, because of the small size of the institution, or (in the case of an extended care facility) because of lack of an organized medical staff, or for such other reason or reasons as may be included in regulations, it is impracticable for the institution to have a properly functioning staff committee for the purposes of this subsection.

(*l*) Agreements for transfer between extended care facilities and hospitals.

A hospital and an extended care facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

(1) transfer of patients will be effected between the hospital and the extended care facility whenever such transfer is medically appropriate as determined by the attending physician; and

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any extended care facility which does not have such an agreement in effect, but which is found by a State agency (of the State in which such facility is situated) with which an agreement under section 1395aa of this title is in effect (or, in the case of a State in which no such agency has an agreement under section 1395aa of this title, by the Secretary) to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as such agency (or the Secretary, as the case may be) finds that to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this subchapter.

(m) Home health services.

The term "home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such individual's home—

(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(2) physical, occupational, or speech therapy;

(3) medical social services under the direction of a physician;

(4) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(5) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

(6) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under a teaching program of such hospital approved as provided in the last sentence of subsection (b) of this section; and

(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or extended care facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A),

but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital.

(n) Post-hospital home health services.

The term "post-hospital home health services" means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient for not less than 3 consecutive days or (if later) within one year after his most recent discharge from an extended care facility of which he was an inpatient entitled to payment under part A for post-hospital extended care services, but only if the plan covering the home health services (as described in subsection (m) of this section) is established within 14 days after his discharge from such hospital or extended care facility.

(o) Home health agency.

The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

(5) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization:

except that such term shall not include a private organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of Title 26 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of part A such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

(p) Outpatient physical therapy services.

The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient—

(1) who is under the care of a physician (as defined in subsection (r)(1) of this section), and

(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

(3) any item or service if it would not be included under subsection (b) of this section if furnished to an inpatient of a hospital; and

(4) any such service—

(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify,

(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides.

(iii) maintains clinical records on all patients,

(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary.

(q) Physicians' services.

The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services described in the last sentence of subsection (b) of this section).

(r) Physician.

The term "physician", when used in connection with the performance of any function or action, means (1) a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1301(a)(7) of this title, (2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw or (B) the reduction of any fracture

of the jaw or any facial bone, or (3) except for the purposes of section 1395f(a) of this title, section 1395n of this title, and subsections (j), (k), (m) and (o) of this section, a doctor of podiatry or surgical chiropody, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform as such by the State in which he performs them.

(s) Medical and other health services.

The term "medical and other health services" means any of the following items or services:

(1) physicians' services;

(2) (A) services and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills;

(B) hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) incident to physicians' services rendered to outpatients;

(C) diagnostic services which are—

(i) furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital, and

(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study; and

(D) outpatient physical therapy services;

(3) diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health and safety as the Secretary may find necessary), diagnostic laboratory tests, and other diagnostic tests;

(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

(5) surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations;

(6) durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition.

No diagnostic tests performed in any laboratory which is independent of a physician's office or a hospital (which, for purposes of this sentence, means an institution considered a hospital for purposes of section 1395f(d) of this title) shall be included within paragraph (3) unless such laboratory—

(10) if situated in any State in which State or applicable local law provides for licensing of establishments of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing establishments of this nature, as meeting the standards established for such licensing; and

(11) meets such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2)(C) any item or service (except services referred to in paragraph (1)) which—

(12) would not be included under subsection (b) of this section if it were furnished to an inpatient of a hospital; or

(13) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

None of the items and services referred to in the preceding paragraphs (other than paragraphs (1) and (2)(A)) of this subsection which are furnished to a patient of an institution which meets the definition of a hospital for purposes of section 1395f(d) of this title shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of individuals with respect to whom such items and services are furnished.

(t) Drugs and biologicals.

The term "drugs" and the term "biologicals", except for purposes of subsection (m)(5) of this section, include only such drugs and biologicals, respectively, as are included (or approved for inclusion) in the United States Pharmacopoeia, the National Formulary, or the United States Homeopathic Pharmacopoeia, or in New Drugs or Accepted Dental Remedies (except for any drugs and biologicals unfavorably evaluated therein), or as are approved by the pharmacy and drug therapeutics committee (or equivalent committee) of the medical staff of the hospital furnishing such drugs and biologicals for use in such hospital.

(u) Provider of services.

The term "provider of services" means a hospital, extended care facility, or home health agency.

(v) Reasonable cost; semi-private accommodations.

(1) The reasonable cost of any services shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment deter-

mined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (A) take into account both direct and indirect costs of providers of services in order that, under the methods of determining costs, the costs with respect to individuals covered by the insurance programs established by this subchapter will not be borne by individuals not so covered, and the costs with repect to individuals not so covered will not be borne by such insurance programs, and (B) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive. Such regulations in the case of extended care services furnished by proprietary facilities shall include provision for specific recognition of a reasonable return on equity capital, including necessary working capital, invested in the facility and used in the furnishing of such services, in lieu of other allowances to the extent that they reflect similar items. The rate of return recognized pursuant to the preceding sentence for determining the reasonable cost of any services furnished in any fiscal period shall not exceed one and one-half times the average of the rates of interest, for each of the months any part of which is included in such fiscal period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations more expensive than semi-private accommodations, the amount taken into account for purposes of payment under this subchapter with respect to such services may not exceed an amount equal to the reasonable cost of such services if furnished in such semi-private accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this subchapter furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary, shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this subchapter, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or extended care facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) For purposes of this subsection, the term "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

(w) Arrangements for certain services.

The term "arrangements" is limited to arrangements under which receipt of payment by the hospital, extended care facility, or home health agency (whether in its own right or as agent), with respect to services for which an individual is entitled to have payment made under this subchapter, discharges the liability of such individual or any other person to pay for the services.

(x) State and United States.

The terms "State" and "United States" have the meaning given to them by subsections (h) and (i), respectively, of section 410 of this title.

(y) Post-hospital extended care in Christian Science extended care facilities.

(1) The term "extended care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only (except for purposes of subsection (a)(2) of this section) with respect to items and services ordinarily furnished by such an institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations.

(2) Notwithstanding any other provision of this subchapter, payment under part A may not be made for services furnished an individual in an extended care facility to which paragraph (1) applies unless such individual elects, in accordance with regulations, for a spell of illness to have such services treated as post-hospital extended care services for

purposes of such part; and payment under part A may not be made for post-hospital extended care services—

(A) furnished an individual during such spell of illness in an extended care facility to which paragraph (1) applies after—

(i) such services have been furnished to him in such a facility for 30 days during such spell, or

(ii) such services have been furnished to him during such spell in an extended care facility to which such paragraph does not apply; or

(B) furnished an individual during such spell of illness in an extended care facility to which paragraph (1) does not apply after such services have been furnished to him during such spell in an extended care facility to which such paragraph applies.

(3) The amount payable under part A for post-hospital extended care services furnished an individual during any spell of illness in an extended care facility to which paragraph (1) applies shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day before the 31st day on which he is furnished such services in such a facility during such spell (and the reduction under this paragraph shall be in lieu of any reduction under section 1395e(a)(3) of this title).

(4) For purposes of subsection (i) of this section, the determination of whether services furnished by or in an institution described in paragraph (1) constitute post-hospital extended care services shall be made in accordance with and subject to such conditions, limitations, and requirements as may be provided in regulations. (Aug. 14, 1935, ch. 531, title XVIII, § 1861, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 313, and amended Nov. 2, 1966, Pub. L. 89–713, § 7, 80 Stat. 1111; Jan. 2, 1968, Pub. L. 90–248, title I, §§ 127(a), 129 (a), (b), (c)(9)(C), (10), (11), 132(a), 133, 134(a), 143(a), 144 (a)—(d), 81 Stat. 846–850, 852, 857, 858; Jan. 12, 1971, Pub. L. 91–690, 84 Stat. 2074.)

AMENDMENTS

1971—Subsec. (e)(5). Pub. L. 91–690 authorized the Secretary, until January 1, 1976, to waive the requirement relating to the provision of 24 hour nursing service rendered or supervised by a registered professional nurse.

1968—Subsec. (e). Pub. L. 90–248, § 129(c)(9)(C), added reference to section 1395n(b) in first and third sentences and inserted "or diagnostic services" after "hospital services" in third sentence.

Pub. L. 90–248, § 143(a), in second sentence after par. (8), changed the definition of hospitals for purposes of making payments for emergency hospital services by deleting provision that hospital meet requirements of pars. (1)–(4), by requiring that such hospitals have full-time nursing services, be licensed as a hospital, and be primarily engaged in providing not nursing care and related services but medical or rehabilitative care by or under the supervision of a doctor of medicine or osteopathy.

Subsec. (p). Pub. L. 90–248, §§ 129(c)(10), 133(b), repealed definition of "outpatient hospital diagnostic services" and inserted definition of "outpatient physical therapy services", respectively.

Subsec. (r). Pub. L. 90–248, § 127(a), added clause (3).

Subsec. (s). Pub. L. 90–248, § 144(a)—(c), deleted "(unless they would otherwise constitute inpatient hospital services, extended care services, or home health services)" following "items or services" in text preceding par. (1), inserted after "hospital" in sentence following par. (9) "which, for purposes of this sentence, means an institution considered a hospital for purposes of section 1395f (d) of this title)", and added sentence following par. (13) providing that medical and other health services (other than physicians' services and services incident to physicians' services) furnished a patient of a facility which meets the definition of a hospital for emergency services will be covered under the medical insurance program only if such facility satisfies such health and safety requirements as are appropriate for the item or service furnished as the Secretary may determine are necessary.

Subsec. (s)(2) (A)—(C). Pub. L. 90–248, § 129(a), designated existing provisions as subpars. (A) and (B) and added subpar. (C).

Subsec. (s)(2)(D). Pub. L. 90–248, § 133(a), added subpar. (D).

Subsec. (s)(3) Pub. L. 90–248, § 134(a), included in medical and other health services diagnostic X-ray tests furnished in the patient's home under the supervision of a physician if the tests meet such health and safety conditions as the Secretary finds necessary.

Subsec. (s)(6). Pub. L. 90–248, § 132(a), provided that payments may be made with respect to expenses incurred in the purchase as well as in the rental of durable medical equipment.

Pub. L. 90–248, § 144(d), inserted after "home" in par. (6) "other than in institution that meets the requirements of subsection (e)(1) or (j)(1) of this section".

Subsec. (s) (12), (13). Pub. L. 90–248, § 129(b), added pars. (12) and (13) which excluded from the diagnostic services referred to in par. (2)(C) (other than physician's services) certain items or service.

Subsec. (y)(3). Pub. L. 90–248, § 129(c)(11), substituted "1395e(a)(3)" for "1395e(a)(4)".

1966—Subsec. (v)(1). Pub. L. 89–713 added provisions which required that, in the case of extended care services furnished by proprietary facilities, the regulations include provision for specific recognition of a reasonable return on equity capital and which placed a limitation on the rate of return of one and one-half times the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 127(c) of Pub. L. 90–248 provided that: "The amendments made by subsections (a) and (b) [to subsec. (r) of this section and section 1395y(a) of this title] shall apply with respect to services furnished after December 31, 1967."

Amendment of subsecs. (e), (p), (s), and (y) of this section by section 129 (a), (b), (c)(9), (10) and (11) of Pub. L. 90–248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248, set out as a note under section 1395d of this title.

Amendment of subsec. (s)(6) of this section by section 132(a) of Pub. L. 90–248 applicable with respect to items purchased after December 31, 1967, see section 132(c) of Pub. L. 90–248, set out as a note under section 1395*l* of this title.

Amendment of subsecs. (p) and (s) of this section by section 133 (a), (b) of Pub. L. 90–248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90–248, set out as a note under section 1395k of this title.

Section 134(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to subsec. (s)(3) of this section] shall apply with respect to services furnished after December 31, 1967."

Amendment of subsec. (e) of this section by section 143(a) of Pub. L. 90–248 effective as of July 1, 1966, see section 143(d) of Pub. L. 90–248, set out as a note under section 1395d of this title.

Section 144(e) of Pub. L. 90–248 provided that: "The amendments made by this section [amending subsec.(s) of this section] shall apply with respect to services furnished after March 31, 1968."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of this section by Pub. L. 89–713 to take effect on the date of enactment of Pub. L. 89–713, which

was approved on Nov. 2, 1966, see section 6 of Pub. L. 89–713, set out as a note under section 6091 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395d, 1395f, 1395k, 1395*l*, 1395m, 1395n, 1395u, 1395z, 1395aa, 1395bb, 1395cc of this title.

§ 1395y. Exclusions from coverage.

(a) Notwithstanding any other provision of this subchapter, no payment may be made under part A or part B for any expenses incurred for items or services—

(1) which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member;

(2) for which the individual furnished such items or services has no legal obligation to pay, and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for;

(3) which are paid for directly or indirectly by a governmental entity (other than under this chapter and other than under a health benefits or insurance plan established for employees of such an entity), except in such cases as the Secretary may specify;

(4) which are not provided within the United States (except for emergency inpatient hospital services furnished outside the United States under the conditions described in section 1395f(f) of this title);

(5) which are required as a result of war, or of an act of war, occurring after the effective date of such individual's current coverage under such part;

(6) which constitute personal comfort items;

(7) where such expenses are for routine physical checkups, eyeglasses or eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, hearing aids or examinations therefor, or immunizations;

(8) where such expenses are for orthopedic shoes or other supportive devices for the feet;

(9) where such expenses are for custodial care;

(10) where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body members;

(11) where such expenses constitute charges imposed by immediate relative of such individual or members of his household;

(12) where such expenses are for services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth; or

(13) where such expenses are for—

(A) the treatment of flat foot conditions and the prescription of supportive devices therefor,

(B) the treatment of subluxations of the foot, or

(C) routine foot care (including the cutting or removal of corns, warts, or calluses, the trimming of nails, and other routine hygienic care).

(b) Payment under this subchapter may not be made with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State. Any payment under this subchapter with respect to any item or service shall be conditioned on reimbursement to the appropriate Trust Fund established by this subchapter when notice or other information is received that payment for such item or service has been made under such a law or plan. (Aug. 14, 1935, ch. 531, title XVIII, § 1862, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 325, and amended Jan. 2, 1968, Pub. L. 90–248, title I, §§ 127(b), 128, 81 Stat. 846, 847.)

AMENDMENTS

1968—Subsec. (a)(7). Pub. L. 90–248, § 128, prohibited payment for procedures performed (during the course of any eye examination) to determine the refractive state of the eyes.

Subsec. (a)(13). Pub. L. 90–248, § 127(b), added par. (13).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a) (11)—(13) by section 127(b) of Pub. L. 90–248, applicable with respect to services furnished after Dec. 31, 1967, see section 127(c) of Pub. L. 90–248 set out as a note under section 1395x of this title.

§ 1395z. Consultation with State agencies and other organizations to develop conditions of participation for providers of services.

In carrying out his functions, relating to determination of conditions of participation by providers of services, under subsection (e)(8), (f)(4), (g)(4), (j)(10), and (*o*)(5) of section 1395x of this title, the Secretary shall consult with the Health Insurance Benefits Advisory Council established by section 1395dd of this title, appropriate State agencies, and recognized national listing or accrediting bodies, and may consult with appropriate local agencies. Such conditions prescribed under any of such subsections may be varied for different areas or different classes of institutions or agencies and may, at the request of a State, provide higher requirements for such State than for other States; except that, in the case of any State or political subdivision of a State which imposes higher requirements on institutions as a condition to the purchase of services (or of certain specified services) in such institutions under a State plan approved under subchapter I, XVI, or XIX of this chapter, the Secretary shall impose like requirements as a condition to the payment for services (or for the services specified by the State or subdivision) in such institutions in such State or subdivision. (Aug. 14, 1935, ch. 531, title XVIII, § 1863, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a). 79 Stat. 325.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395x, 1395bb of this title.

§ 1395aa. Use of State agencies to determine compliance by providers of services with conditions of participation.

(a) The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by him for the purpose of determining whether an institution therein is a hospital or extended care facility, or whether an agency therein is a home health agency, or whether a laboratory meets the requirements of paragraphs (10) and (11) of section 1395x(s) of this title, or whether a clinic, rehabilitation agency, or public health agency meets the requirements of subparagraph (A) or (B), as the case may be, of section 1395x(p)(4) of this title. To the extent that the Secretary finds it appropriate, an institution or agency which such a State (or local) agency certifies is a hospital, extended care facility, or home health agency (as those terms are defined in section 1395x of this title) may be treated as such by the Secretary.

(b) The Secretary shall pay any such State, in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (a) of this section, and for the Federal Hospital Insurance Trust Fund's fair share of the costs attributable to the planning and other efforts directed toward coordination of activities in carrying out its agreement and other activities related to the provision of services similar to those for which payment may be made under part A, or related to the facilities and personnel required for the provision of such services, or related to improving the quality of such services. (Aug. 14, 1935, ch. 531, title XVIII, § 1864, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 326, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 133(f), title II, § 228 (b), 81 Stat. 852, 904.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 133(f), added clause at end of first sentence for determining whether a clinic, rehabilitation agency, or public health agency meets the requirements of section 1395x(p)(4) (A) or (B) of this title.

Pub. L. 90–248, § 228(b), repealed last sentence providing for utilization of State facilities to provide consultative services to institutions furnishing medcal care, now covered in section 1396a(a)(24) of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 133(f) of Pub. L. 90–248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90–248 set out as a note under section 1395k of this title.

Section 228(b) of Pub. L. 90–248 provided in part that the repeal of the last sentence of subsec. (a) by such section 228(b) shall be effective July 1, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395x of this title.

§ 1395bb. Effect of accreditation.

Except as provided in the second sentence of section 1395z of this title, an institution shall be deemed to meet the requirements of the numbered paragraphs of section 1395x(e) of this title (except paragraph (6) thereof) if such institution is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. If such Commission, as a condition for accreditation of a hospital, requires a utilization review plan or imposes another requirement which serves substantially the same purpose, the Secretary is authorized to find that all institutions so accredited by the Commission comply also with section 1395x(e)(6) of this title. In addition, if the Secretary finds that accreditation of an institution or agency by the American Osteopathic Association or any other national accreditation body provides reasonable assurance that any or all of the conditions of section 1395x (e), (j), or (o) of this title, as the case may be, are met, he may, to the extent he deems it appropriate, treat such institution or agency as meeting the condition or conditions with respect to which he made such finding. (Aug. 14, 1935, ch. 531, title XVIII, § 1865, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 326.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395x of this title.

§ 1395cc. Agreements with providers of services.

(a)(1) Any provider of services shall be qualified to participate under this subchapter and shall be eligible for payments under this subchapter if it files with the Secretary an agreement—

(A) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this subchapter (or for which he would be so entitled if such provider of services had complied with the procedural and other requirements under or pursuant to this subchapter or for which such provider is paid pursuant to the provisions of section 1395f(e) of this title), and

(B) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person.

(2)(A) A provider of services may charge such individual or other person (i) the amount of any deduction or coinsurance amount imposed pursuant to section 1395e (a)(1) or (a)(3), section 1395*l*(b), or section 1395x(y)(3) of this title with respect to such items and services (not in excess of the amount customarily charged for such items and services by such provider), and (ii) an amount equal to 20 per centum of the reasonable charges for such items and services (not in excess of 20 per centum of the amount customarily charged for such items and services by such provider) for which payment is made under part B. In the case of items and services described in section 1395*l*(c) of this title, clause (ii) of the preceding sentence shall be applied by substituting for 20 percent the proportion which is appropriate under such section.

(B) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider of services may also charge such individual or other person for such more expensive items or services to

the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this subchapter.

(C) A provider of services may in accordance with its customary practice also appropriately charge any such individual for any whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished him with respect to which a deductible is imposed under section 1395e(a)(2) of this title, except that (i) any excess of such charge over the cost to such provider for the blood (or equivalent quantities of packed red blood cells, as so defined) shall be deducted from any payment to such provider under this subchapter, (ii) no such charge may be imposed for the cost of administration of such blood (or equivalent quantities of packed red blood cells, as so defined), and (iii) such charge may not be made to the extent such blood (or equivalent quantities of packed red blood cells, as so defined) has been replaced on behalf of such individual or arrangements have been made for its replacement on his behalf. For purposes of clause (iii) of the preceding sentence, whole blood (or equivalent quantities of packed red blood cells, as so defined) furnished an individual shall be deemed replaced when the provider of services is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is imposed under section 1395e(a)(2) of this title.

(b) An agreement with the Secretary under this section may be terminated—

(1) by the provider of services at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than 6 months shall not be required, or

(2) by the Secretary at such time and upon such reasonable notice to the provider of services and the public as may be specified in regulations, but only after the Secretary has determined (A) that such provider of services is not complying substantially with the provisions of such agreement, or with the provisions of this subchapter and regulations thereunder, or (B) that such provider of services no longer substantially meets the applicable provisions of section 1395x of this title, or (C) that such provider of services has failed to provide such information as the Secretary finds necessary to determine whether payments are or were due under this subchapter and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Secretary as may be necessary to verify such information.

Any termination shall be applicable—

(3) in the case of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to such services furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after the effective date of such termination,

(4)(A) with respect to home health services furnished to an individual under a plan therefor established on or after the effective date of such termination, or (B) if a plan is established before such effective date, with respect to such services furnished to such individual after the calendar year in which such termination is effective, and

(5) with respect to any other items and services furnished on or after the effective date of such termination.

(c) Where an agreement filed under this subchapter by a provider of services has been terminated by the Secretary, such provider may not file another agreement under this subchapter unless the Secretary finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

(d) If the Secretary finds that there is a substantial failure to make timely review in accordance with section 1395x(k) of this title of long-stay cases in a hospital or extended care facility, he may, in lieu of terminating his agreement with such hospital or facility, decide that, with respect to any individual admitted to such hospital or facility after a subsequent date specified by him, no payment shall be made under this subchapter for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) after the 20th day of a continuous period of such services or for post-hospital extended care services after such day of a continuous period of such care as is prescribed in or pursuant to regulations, as the case may be. Such decision may be made effective only after such notice to the hospital, or (in the case of an extended care facility) to the facility and the hospital or hospitals with which it has a transfer agreement, and to the public, as may be prescribed by regulations, and its effectiveness shall terminate when the Secretary finds that the reason therefor has been removed and that there is reasonable assurance that it will not recur. The Secretary shall not make any such decision except after reasonable notice and opportunity for hearing to the institution or agency affected thereby.

(e) For purposes of this section, the term "provider of services" shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1395x(p)(4)(A) of this title, or if, in the case of a public health agency, such agency meets the requirements of section 1395x(p)(4)(B) of this title, but only with respect to the furnishing of outpatient physical therapy services (as therein defined). (Aug. 14, 1935, ch. 531, title XVIII, § 1866, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 327, and amended Jan. 2, 1968, Pub. L. 90-248, title I, §§ 129(c)(12), 133(c), 135(b), 81 Stat. 849, 851, 852.)

AMENDMENTS

1968—Subsec. (a)(2)(A). Pub. L. 90-248, § 129(c)(12)(A)(i), (ii), substituted "or (a)(3)" for ", (a)(2), or (a)(4)" in clause (i), and deleted "or, in the case of outpatient hospital diagnostic services, for which payment is made under part A" in clause (ii).

Subsec. (a)(2)(C). Pub. L. 90–248, § 129(c)(12)(B), substituted "1395e(a)(2)" for "1395e(a)(3)".

Pub. L. 90–248, § 135(b), authorized a provider of services to charge for blood in accordance with its customary practices, included, in addition to whole blood for which a provider of services may charge, equivalent quantities of packed red blood cells, and provided that blood furnished an individual will be deemed replaced when the provider is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells) furnished the individual to which the three pint deductible applies.

Subsec. (e). Pub. L. 90–248, § 133(c), added subsec. (e).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(2)(A), (C) of this section by section 129(c)(12)(A), (B) of Pub. L. 90–248, applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90–248, set out as a note under section 1395d of this title.

Amendment of subsec. (a)(2)(C) of this section by section 135(b) of Pub. L. 90–248, applicable with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967, see section 135(d) of Pub. L. 90–248, set out as a note under section 1395e of this title.

Amendment of subsec. (e) of this section by section 133(c) of Pub. L. 90–248, applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90–248, set out as a note under section 1395k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395e, 1395f, 1395n, 1395x, 1395ff of this title.

§ 1395dd. Health Insurance Benefits Advisory Council.

(a) Creation; composition; appointment of members; Chairman; representative activities and interests; terms of office; special advisory professional or technical committees; compensation and travel expenses; meetings.

There is hereby created a Health Insurance Benefits Advisory Council which shall consist of 19 persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include persons who are outstanding in fields related to hospital, medical, and other health activities, persons who are representative of organizations and associations of professional personnel in the field of medicine, and at least one person who is representative of the general public. Each member shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member shall not be eligible to serve continuously for more than 2 terms. The Secretary may, at the request of the Advisory Council or otherwise, appoint such special advisory professional or technical committees as may be useful in carrying out this subchapter. Members of the Advisory Council and members of any such advisory or technical committee, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council or of such committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. The Advisory Council shall meet as frequently as the Secretary deems necessary. Upon request of 5 or more members, it shall be the duty of the Secretary to call a meeting of the Advisory Council.

(b) Functions of Council; annual reports to Secretary and Congress.

It shall be the function of the Advisory Council (1) to advise the Secretary on matters of general policy in the administration of this subchapter and in the formulation of regulations under this subchapter, and (2) to study the utilization of hospital and other medical care and services for which payment may be made under this subchapter with a view to recommending any changes which may seem desirable in the way in which such care and services are utilized or in the administration of the programs established by this subchapter, or in the provisions of this subchapter. The Advisory Council shall make an annual report to the Secretary on the performance of its functions, including any recommendations it may have with respect thereto, and such report shall be transmitted promptly by the Secretary to the Congress.

(c) Technical assistance; availability of assistance and data.

The Advisory Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Advisory Council such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the Advisory Council may require to carry out its functions. (Aug. 14, 1935, ch. 531, title XVIII, § 1867, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 329, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 164(a), 81 Stat. 873.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248 designated existing provisions as subsec. (a), deleted subject matter now covered in subsec. (b)(1) of this section and respecting expiration of terms of office of members first taking office, as designated by the Secretary when appointed, four at end of first year, four at end of second year, four at end of third year, and four at end of fourth year after date of appointment, increased Council membership from 16 to 19 persons and number of members required to call meetings from 4 to 5 persons, substituted provision for appointments without regard to provisions of Title 5, governing appointments in the competitive service for former provision to disregard the civil service laws and reference to section 5703 for section 73b–2 of Title 5, and provided for representation of organizations and associations of professional personnel in the field of medicine.

Subsec. (b). Pub. L. 90–248 incorporated existing provisions in cl. (1) and added cl. (2) making it a Council function to study and recommend changes in use of hospital and other medical care and services and requirement of annual reports to the Secretary and Congress.

Subsec. (c). Pub. L. 90–248 added subsec. (c).

TERMS OF OFFICE; EXPIRATION

Section 164(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [amending this section] shall not be construed as affecting the terms of office of the members of the Health Insurance Benefits Advisory Council in office on the date of the enactment of this Act [Jan. 2, 1968] or their successors. The terms of office of the three additional members of the Health Insurance Benefits Advisory Council first appointed pur-

suant to the increase in the membership of such Council provided by such amendment shall expire, as designated by the Secretary at the time of appointment, one at the end of the first year, one at the end of the second year, and one at the end of the third year after the date of appointment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1395z of this title.

§ 1395ee. Repealed. Pub. L. 90-248, title I, § 164(c), Jan. 2, 1968, 81 Stat. 874.

Section, act Aug. 14, 1935, ch. 531, title XVIII, § 1868, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 329, provided for creation of a National Medical Review Committee, functions of such Committee, including submission of annual reports to the Secretary and Congress, employment of technical assistance, and for availability of assistance and data, and is now covered by section 1395dd of this title.

§ 1395ff. Determinations; appeals.

(a) The determination of whether an individual is entitled to benefits under part A or part B, and the determination of the amount of benefits under part A, shall be made by the Secretary in accordance with regulations prescribed by him.

(b) Any individual dissatisfied with any determination under subsection (a) of this section as to entitlement under part A or part B, or as to amount of benefits under part A where the matter in controversy is $100 or more, shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405(b) of this title, and, in the case of a determination as to entitlement or as to amount of benefits where the amount in controversy is $1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title.

(c) Any institution or agency dissatisfied with any determination by the Secretary that it is not a provider of services, or with any determination described in section 1395cc(b)(2) of this title, shall be entitled to a hearing thereon by the Secretary (after reasonable notice and opportunity for hearing) to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title. (Aug. 14, 1935, ch. 531, title XVIII, § 1869, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a) 79 Stat. 330.)

§ 1395gg. Overpayments on behalf of individuals and settlement of claims for benefits on behalf of deceased individuals.

(a) Any payment under this subchapter to any provider of services or other person with respect to any items or services furnished any individual shall be regarded as a payment to such individual.

(b) Where—

(1) more than the correct amount is paid under this subchapter to a provider of services or other person for items or services furnished an individual and the Secretary determines that, within such period as he may specify, the excess over the correct amount cannot be recouped from such provider of services or other person, or

(2) any payment has been made under section 1395f(e) of this title to a provider of services or other person for items or services furnished an individual,

proper adjustments shall be made, under regulations prescribed (after consultation with the Railroad Retirement Board) by the Secretary, by decreasing subsequent payments—

(3) to which such individual is entitled under subchapter II of this chapter or under the Railroad Retirement Act of 1937, as the case may be, or

(4) if such individual dies before such adjustment has been completed, to which any other individual is entitled under subchapter II of this chapter or under the Railroad Retirement Act of 1937, as the case may be, with respect to the wages and self-employment income or the compensation constituting the basis of the benefits of such deceased individual under subchapter II of this chapter.

As soon as practicable after any adjustment under paragraph (3) or (4) is determined to be necessary, the Secretary, for purposes of this section, section 1395i(g) of this title, and section 1395t(f) of this title, shall certify (to the Railroad Retirement Board if the adjustment is to be made by decreasing subsequent payments under the Railroad Retirement Act of 1937) the amount of the overpayment as to which the adjustment is to be made.

(c) There shall be no adjustment as provided in subsection (b) of this section (nor shall there be recovery) in any case where the incorrect payment has been made (including payments under section 1395f(e) of this title) with respect to an individual who is without fault and where such adjustment (or recovery) would defeat the purposes of subchapter II of this chapter or would be against equity and good conscience.

(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any provider of services or other person where the adjustment or recovery of such amount is waived under subsection (c) of this section or where adjustment under subsection (b) of this section is not completed prior to the death of all persons against whose benefits such adjustment is authorized.

(e) If an individual, who received services for which payment may be made to such individual under this subchapter, dies, and payment for such services was made (other than under this subchapter), and the individual died before any payment due him under this subchapter with respect to such services was completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—

(1) if the payment for such services was made (before or after such individual's death) by a person other than the deceased individual, to the person or persons determined by the Secretary under regulations to have paid for such services, or if the payment for such services was made by deceased individual before his death, to the legal represenative of the estate of such deceased individual, if any;

(2) if there is no person who meets the requirements of paragraph (1), to the person, if any, who is determined by the Secretary to be the surviving spouse of the deceased individual and who was

either living in the same household with the deceased at the time of his death or was, for the month in which the deceased individual died, entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;

(3) if there is no person who meets the requirements of paragraph (1) or (2), or if the person who meets such requirements dies before the payment due him under this subchapter is completed, to the child or children, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent);

(5) if there is no person who meets the requirements of paragraph (1), (2), (3), or (4), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual;

(6) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), or (5), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person or persons, if any, determined by the Secretary to be the child or children of the deceased individual (and, in case there is more than one such child, in equal parts to each such child);

(7) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), or (6), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent); or

(8) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), (6), or (7), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the legal representatives of the estate of the deceased individual, if any.

(f) If an individual who received medical and other health services for which payment may be made under section 1395k(a)(1) of this title dies, and—

(1) no assignment of the right to payments was made by such individual before his death, and

(2) payment for such services has not been made,

payment for such services shall be made to the physician or other person who provided such services, but payment shall be made under this subsection only in such amount and subject to such conditions as would have been applicable if the individual who received the services had not died, and only if the person or persons who provided the services agrees that the reasonable charge is the full charge for the services. (Aug. 14, 1935, ch. 531, title XVIII, § 1870, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 331, and amended Jan. 2, 1968, Pub. L. 90–248, title I, § 154(b), (c), 81 Stat. 862.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsec. (b) (3), (4), and last sentence, is classified to sections 228a to 228c–1, 228e to 228h, and 228i to 228s–2 of Title 45, Railroads.

AMENDMENTS

1968—Pub. L. 90–248, § 154(b), provided in the section catchline for the settlement of claims for benefits on behalf of deceased individuals.

Subsecs. (e), (f). Pub. L. 90–248, § 154(c), added subsecs. (e) and (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1395i, 1395t, 1395u of this title.

§ 1395hh. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the administration of the insurance programs under this subchapter. When used in this subchapter, the term "regulations" means, unless the context otherwise requires, regulations prescribed by the Secretary. (Aug. 14, 1935, ch. 531, title XVIII, § 1871, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a) 79 Stat. 331.)

§ 1395ii. Application of certain provisions of subchapter II.

The provisions of sections 406, 408, and 416(j) of this title, and of subsections (a), (d), (e), (f), (h), (i), (j), (k) aid (*l*) of section 405 of this title, shall also apply with respect to this subchapter to the same extent as they are applicable with respect to subchapter II of this chapter. (Aug. 14, 1935, ch. 531, title XVIII, § 1872, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 332.)

§ 1395jj. Designation of organization or publication by name.

Designation in this subchapter, by name, of any nongovernmental organization or publication shall not be affected by change of name of such organization or publication, and shall apply to any successor organization or publication which the Secretary finds serves the purpose for which such designation is made. (Aug. 14, 1935, ch. 531, title XVIII, § 1873, as added July 30, 1965, Pub. L. 89–97, title I, § 102(a), 79 Stat. 332.)

§ 1395kk. Administration.

(a) Except as otherwise provided in this subchapter and in the Railroad Retirement Act of 1937, the insurance programs established by this subchapter shall be administered by the Secretary. The Secretary may perform any of his functions under this

subchapter directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

(b) The Secretary may contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this subchapter. (Aug. 14, 1935, ch. 531, title XVIII, § 1874, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 332, and amended July 30, 1965, Pub. L. 89-97, title I, § 111(a), 79 Stat. 340.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1937, referred to in subsec. (a), is classified to sections 228a to 228c-1, 228e to 228h, and 228i to 228s-2 of Title 45, Railroads.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-97 inserted in the first sentence the reference to the Railroad Retirement Act of 1937.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of this section by Pub. L. 89-97 applicable to calendar year 1966 or to any subsequent calendar year but only if by October 1 immediately preceding such calendar year the Railroad Retirement Tax Act provides for a maximum amount of monthly compensation taxable under such Act during all months of such calendar year equal to one-twelfth of maximum wages which Federal Insurance Contributions Act provides may be counted for such calendar year, see section 111(e) of Pub. L. 89-97, set out as a note under section 228s-2 of Title 45, Railroads.

§ 1395*ll*. Studies and recommendations.

(a) The Secretary shall carry on studies and develop recommendations to be submitted from time to time to the Congress relating to health care of the aged, including studies and recommendations concerning (1) the adequacy of existing personnel and facilities for health care for purposes of the programs under parts A and B; (2) methods for encouraging the further development of efficient and economical forms of health care which are a constructive alternative to inpatient hospital care; and (3) the effects of the deductibles and coinsurance provisions upon beneficiaries, persons who provide health services, and the financing of the program.

(b) The Secretary shall make a continuing study of the operation and administration of the insurance programs under parts A and B (including the experimentation authorized by section 1395b-1 of this title), and shall transmit to the Congress annually a report concerning the operation of such programs. (Aug. 14, 1935, ch. 531, title XVIII, § 1875, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 332, and amended Jan. 2, 1968, Pub. L. 90-248, title IV, § 402(c), 81 Stat. 931.)

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-248 inserted "(including the experimentation authorized by section 1395b—1 of this title)" after "under parts A and B".

SUBCHAPTER XIX.—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 713, 1301, 1306, 1308, 1309, 1315, 1316, 1317, 1318, 1319, 1320a, 1395b-1, 1395v of this title.

§ 1396. Appropriations.

For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or permanently and totally disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for medical assistance. (Aug. 14, 1935, ch. 531, title XIX, § 1901, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 343.)

§ 1396a. State plans for medical assistance.

(a) Contents.

A State plan for medical assistance must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State equal to not less than 40 per centum of the non-Federal share of the expenditures under the plan with respect to which payments under section 1396b of this title are authorized by this subchapter; and, effective July 1, 1969, provide for financial participation by the State equal to all of such non-Federal share or provide for distribution of funds from Federal or State sources, for carrying out the State plan, on an equalization or other basis which will assure that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan;

(3) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for medical assistance under the plan is denied or is not acted upon with reasonable promptness;

(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of non-paid or partially paid volunteers in a social service

volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(5) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan, except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under subchapter I or XVI of this chapter (insofar as it relates to the aged);

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals.

(9) provide for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services;

(10) provides for making medical assistance available to individuals receiving aid or assistance under State plans approved under subchapters I, X, XIV, and XVI of this chapter, and part A of subchapter IV of this chapter; and—

(A) provide that the medical assistance made available to individuals receiving aid or assistance under any such State plan—

(i) shall not be less in amount, duration, or scope than the medical assistance made available to individuals receiving aid or assistance under any other such State plan, and

(ii) shall not be less in amount, duration, or scope than the medical or remedial care and services made available to individuals not receiving aid or assistance under any such plan; and

(B) if medical or remedial care and services are included for any group of individuals who are not receiving aid or assistance under any such State plan and who do not meet the income and resources requirements of the one of such State plans which is appropriate, as determined in accordance with standards prescribed by the Secretary, provide—

(i) for making medical or remedial care and services available to all individuals who would, if needy, be eligible for aid or assistance under any such State plan and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical or remedial care and services, and

(ii) that the medical or remedial care and services made available to all individuals not receiving aid or assistance under any such State plan shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph (4) or (14) of section 1396d(a) of this title to individuals meeting the age requirement prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, and (II) the making available of supplementary medical insurance benefits under part B of subchapter XVIII of this chapter to individuals eligible therefor (either pursuant to an agreement entered into under section 1395v of this title or by reason of the payment of premiums under such subchapter by the State agency on behalf of such individuals) or provision for meeting part or all of the cost of the deductibles, cost sharing, or similar charges under part B of subchapter XVIII of this chapter for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals.

(11)(A) provide for entering into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provision of medical assistance under the plan, and (B) effective July 1, 1969, provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments for part or all of the cost of plans or projects under subchapter V of the chapter, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such plan or project under subchapter V of this chapter and which are included in the State plan approved under this section and (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to him under section 1396b of this title;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) provide—

(A)(i) for the inclusion of some institutional and some noninstitutional care and services, and

(ii) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing home services and

(B) in the case of individuals receiving aid or assistance under the States plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1396d(a) of this title, and

(C) in the case of individuals not included under subparagraph (B) for the inclusion of at least—

(i) the care and services listed in clauses (1) through (5) of section 1396d(a) of this title or

(ii) (I) the care and services listed in any 7 of the clauses numbered (1) through (14) of such section and (II) in the event the care and services provided under the State plan include hospital or skilled nursing home services, physicians' services to an individual in a hospital or skilled nursing home during any period he is receiving hospital services from such hospital or skilled nursing home services from such home, and

(D) for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary and included in the plan) of inpatient hospital services provided under the plan;

(14) provide that (A) in the case of individuals receiving aid or assistance under State plans approved under subchapters I, X, XIV, XVI, and part A of subchapter IV of this chapter, no deduction, cost sharing, or similar charge will be imposed under the plan on the individual with respect to inpatient hospital services furnished him under the plan, and (B) any deduction, cost sharing, or similar charge imposed under the plan with respect to inpatient hospital services or any other medical assistance furnished to an individual thereunder, and any enrollment fee, premium, or similar charge imposed under the plan, shall be reasonably related (as determined in accordance with standards approved by the Secretary and included in the plan) to the recipient's income or his income and resources;

(15) in the case of eligible individuals 65 years of age or older who are covered by either or both of the insurance programs established by subchapter XVIII of this chapter, provide where, under the plan, all of any deductible, cost sharing, or similar charge imposed with respect to such individual under the insurance program established by such subchapter is not met, the portion thereof which is met shall be determined on a basis reasonably related (as determined in accordance with standards approved by the Secretary and included in the plan) to such individual's income or his income and resources;

(16) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulation) with respect to the furnishing of medical assistance under the plan to individuals who are residents of the State but are absent therefrom;

(17) include reasonable standards (which shall be comparable for all groups and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, based on the variations between shelter costs in urban areas and in rural areas) for determining eligibility for and the extent of medical assistance under the plan which (A) are consistent with the objectives of this subchapter, (B) provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient and (in the case of any applicant or recipient who would, if he met the requirements as to need, be eligible for aid or assistance in the form of money payments under a State plan approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter) as would not be disregarded (or set aside for future needs) in determining his eligibility for and amount of such aid or assistance under such plan, (C) provide for reasonable evaluation of any such income or resources, and (D) do not take into account the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21 or is blind or permanently and totally disabled; and provide for flexibility in the application of such standards with respect to income by taking into account, except to the extent prescribed by the Secretary, the costs (whether in the form of insurance premiums or otherwise) incurred for medical care or for any other type of remedial care recognized under State law;

(18) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, in the case of an individual who was 65 years of age or older when he received such assistance, from his estate, and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age 21 or is blind or permanently and totally disabled) of any medical assistance correctly paid on behalf of such individual under the plan;

(19) provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients;

(20) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodical determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 303(a)(4)(A) (i) and (ii) of this title or section 1383(a)(4)(A) (i) and (ii) of this title which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients;

(21) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases;

(22) include descriptions of (A) the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have, (B) the standards, for private or public institutions in which recipients of medical assistance under the plan may receive care or services, that will be utilized by the State authority or authorities responsible for establishing and maintaining such standards, (C) the cooperative arrangements with State health agencies and State vocational rehabilitation agencies entered into with a view to maximum utilization of and coordination of the provision of medical assistance with the services administered or supervised by such agencies, and (D) other standards and methods that the State will use to assure that medical or remedial care and services provided to recipients of medical assistance are of high quality;

(23) provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perfrom the service or services required (incluidng an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services;

(24) effective July 1, 1969, provide for consultative services by health agencies and other appropriate agencies of the State to hospitals, nursing homes, home health agencies, clinics, laboratories, and such other institutions as the Secretary may specify in order to assist them (A) to qualify for payments under this chapter, (B) to establish and maintain such fiscal records as may be necessary for the proper and efficient administration of this chapter, and (C) to provide information needed to determine payments due under this chapter on account of care and services furnished to individuals;

(25) provide (A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or disability, (B) that where the State or local agency knows that a third party has such a legal liability such agency will treat such legal liability as a resource of the individual on whose behalf the care and services are made available for purposes of paragraph (17) (B), and (C) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

(26) effective July 1, 1969, provide (A) for a regular program of medical review (including medical evaluation of each patient's need for skilled nursing home care) or (in the case of individuals who are eligible therefor under the State plan) need for care in a mental hospital, a written plan of care, and, where applicable, a plan of rehabilitation prior to admission to a skilled nursing home; (B) for periodic inspections to be made in all skilled nursing homes and mental institutions (if the State plan includes care in such institutions) within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of (i) the care being provided in such nursing homes (and mental institutions, if care therein is provided under the State plan) to persons receiving assistance under the State plan, (ii) with respect to each of the patients receiving such care, the adequacy of the services available in particular nursing homes (or institutions) to meet the current health needs and promote the maximum physical well-being of patients receiving care in

such homes (or institutions), (iii) the necessity and desirability of the continued placement of such patients in such nursing homes (or institutions), and (iv) the feasibility of meeting their health care needs through alternative institutional or noninstitutional services; and (C) for the making by such team or teams of full and complete reports of the findings resulting from such inspections together with any recommendations to the State agency administering or supervising the administration of the State plan;

(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency may from time to time request;

(28) provide that any skilled nursing home receiving payments under such plan must—

(A) supply to the licensing agency of the State full and complete information as to the identity (i) of each person having (directly or indirectly) an ownership interest of 10 per centum or more in such nursing home, (ii) in case a nursing home is organized as a corporation, of each officer and director of the corporation, and (iii) in case a nursing home is organized as a partnership, of each partner; and promptly report any changes which would affect the current accuracy of the information so required to be supplied;

(B) have and maintain an organized nursing service for its patients, which is under the direction of a professional registered nurse who is employed full-time by such nursing home, and which is composed of sufficient nursing and auxiliary personnel to provide adequate and properly supervised nursing services for such patients during all hours of each day and all days of each week;

(C) make satisfactory arrangements for professional planning and supervision of menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed;

(D) have satisfactory policies and procedures relating to the maintenance of medical records on each patient of the nursing home, dispensing and administering of drugs and biologicals, and assuring that each patient is under the care of a physician and that adequate provisions is[1] made for medical attention to any patient during emergencies;

(E) have arrangements with one or more general hospitals under which such hospital or hospitals will provide needed diagnostic and other services to patients of such nursing home, and under which such hospital or hospitals agree to timely acceptance, as patients thereof, of acutely ill patients of such nursing home who are in need of hospital care; except that the State agency may waive this requirement wholly or in part with respect to any nursing home meeting all the other requirements and which, by reason of remote location or other good and sufficient reason, is unable to effect such an arrangement with a hospital; and

(F) (i) meet (after December 31, 1969) such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to nursing homes; except that the State agency may waive in accordance with regulations of the Secretary, for such periods as it deems appropriate, specific provisions of such code which, if rigidly applied, would result in unreasonable hardship upon a nursing home, but only if such agency makes a determination (and keeps a written record setting forth the basis of such determination) that such waiver will not adversely affect the health and safety of the patients of such skilled nursing home; and except that the requirements set forth in the preceding provisions of this subclause (i) shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing homes; and (ii) meet conditions relating to environment and sanitation applicable to extended care facilities under subchapter XVIII of this chapter; except that the State agency may waive in accordance with regulations of the Secretary, for such periods as it deems appropriate, any requirement imposed by the preceding provisions of this subclause (ii) if such agency finds that such requirement, if rigidly applied, would result in unreasonable hardship upon a nursing home, but only if such agency makes a determination (and keeps a written record setting forth the basis of such determination) that such waiver will not adversely affect the health and safety of the patients of such nursing home;

(29) include a State program which meets the requirements set forth in section 1396g of this title, for the licensing of administrators of nursing homes; and

(30) provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care.

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under subchapter I of this chapter (or sub-

[1] So in original. Probably should be "are".

chapter XVI of this chapter, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter (or subchapter XVI of this chapter, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind individuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter (except for purposes of paragraph (10)).

(b) Approval by Secretary.

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for medical assistance under the plan—

(1) an age requirement of more than 65 years; or

(2) effective July 1, 1967, any age requirement which excludes any individual who has not attained the age of 21 and is or would, except for the provisions of section 606(a)(2) of this title, be a dependent child under part A of subchapter IV of this chapter; or

(3) any residence requirement which excludes any individual who resides in the State; or

(4) any citizenship requirement which excludes any citizen of the United States.

(c) Same; reduction of aid or assistance under State plans under other subchapters.

Notwithstanding subsection (b) of this section, the Secretary shall not approve any State plan for medical assistance if he determines that the approval and operation of the plan will result in a reduction in aid or assistance in the form of money payments (other than so much, if any, of the aid or assistance in such form as was, immediately prior to the effective date of the State plan under this subchapter, attributable to medical needs) provided for eligible individuals under a plan of such State approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter.

(d) Modification; certification requirements.

Whenever any State desires a modification of the State plan for medical assistance so as to reduce the scope or extent of the care and services provided as medical assistance under such plan, or to terminate any of such care and services, the Secretary shall, upon application of the State, approve any such modification if the Governor of such State certifies to the Secretary that—

(1) the average quarterly amount of non-Federal funds expended in providing medical assistance under the plan for any consecutive four-quarter period after the quarter in which such modification takes effect will not be less than the average quarterly amount of such funds expended in providing such assistance for the four-quarter period which immediately precedes the quarter in which such modification is to become effective,

(2) the State is fully complying with the provisions of its State plan (relating to control of utilization and costs of services) which are included therein pursuant to the requirements of subsection (a)(30) of this section, and

(3) the modification is not made for the purpose of increasing the standard or other formula for determining payments for those types of care or services which, after such modification, are provided under the State plan,

and if the Secretary finds that the State is complying with the provisions of its State plan referred to in clause (2); except that nothing in this subsection shall be construed to authorize any modification in the State plan of any State which would terminate the care or services required to be included pursuant to subsection (a)(13) of this section. Any increase in the formula or other standard for determining payments for those types of care or services which, after such modification, are provided under the State plan shall be made only after approval thereof by the Secretary. (Aug. 14, 1935, ch. 531, title XIX, § 1902, as added July 30, 1965, Pub. L. 89–91, title I, § 121(a), 79 Stat. 334, and amended Jan. 2, 1968, Pub. L. 90–248, title II, §§ 210(a)(6), 223(a), 224(a), (c)(1), 227(a), 228(a), 229(a), 231, 234(a), 235(a), 236(a), 237, 238, 241(f)(1)—(4), title III, § 302(b), 81 Stat. 896, 901—906, 908, 911, 917, 929; Aug. 9, 1969, Pub. L. 91–56 § 2(c), (d), 83 Stat. 99.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–56, § 2(c), substituted "aid or assistance in the form of money payments (other than so much, if any, of the aid or assistance in such form as was, immediately prior to the effective date of the State plan under this subchapter, attributable to medical needs)" for "aid or assistance (other than so much of the aid or assistance as is provided for under the plan of the State approved under this subchapter)".

Subsec. (d). Pub. L. 91–56, § 2(d), added subsec. (d).

1968—Subsec. (a)(2). Pub. L. 90–248, § 231, changed the date on which State plans must meet certain financial participation requirements by substituting "July 1, 1969" for "July 1, 1970".

Subsec. (a)(4). Pub. L. 90–248, § 210(a)(6), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10). Pub. L. 90–248, §§ 223(a), 241(f)(1), deleted "IV," after "I," and inserted ", and part A of subchapter IV of this chapter" after "XVI of this chapter", and designated existing provisions as item I and added item II.

Subsec. (a)(11). Pub. L. 90–248, § 302(b), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(13). Pub. L. 90–248, § 224(a), designated existing provisions as subpar. (A), incorporated existing cl. (A) in provisions designated as subpars. (B) and (C)-(i), making subpar. (B) and (C) applicable to individuals receiving aid or assistance under an approved State plan and to individuals not covered under subpar. (B), respectively, added cl. (ii) of subpar. (C), redesignated former cl. (B) as subpar. (D), and deleted effective date of July 1, 1967, for former cls. (A) and (B).

Subsec. (a)(13)(A). Pub. L. 90–248, § 224(c)(1), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(14)(A). Pub. L. 90–248, § 235(a)(1), inserted "in the case of individuals receiving aid or assistance under State plans approved under subchapters I, X, XIV, XVI, and part A of subchapter IV of this chapter,".

Subsec. (a)(14)(B). Pub. L. 90–248, § 235(a)(2), inserted "inpatient hospital services or" after "respect to" and substituted "to an individual" for "him".

Subsec. (a)(15). Pub. L. 90–248, § 235(a)(3), deleted subpar. (B) provision for meeting the full cost of any deductible imposed with respect to any such individual under the insurance program established by part A of such subchapter, deleted subpar. (B) designation preceding "where, under the plan", and substituted therein "established by such subchapter" for "established by part B of such subchapter".

Subsec. (a)(17). Pub. L. 90–248, § 238, inserted in the parenthetical expression "and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, based on the variations between shelter costs in urban areas and in rural areas" following "all groups".

Pub. L. 90–248, § 241(f)(2), in clause (B) deleted "IV," after "I," and inserted ", or part A of subchapter IV of this chapter" after "XVI of this chapter".

Subsecs. (a) (23)—(30). Pub. L. 90–248, §§ 227(a), 228(a), 229(a), 234(a), 236(a), 237, added pars. (23), (24), (25), (26)—(28), (29), (30), respectively.

Subsec. (b)(2). Pub. L. 90–248, § 241(f)(3), inserted "part A of" before "subchapter IV".

Subsec. (c). Pub. L. 90–248, § 241(f)(4), deleted "IV," after "I," and inserted ", or part A of subchapter IV of this chapter" after "XVI of this chapter".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a)(4) by section 210(a)(6) of Pub. L. 90–248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90–248, set out as a note under section 302 of this title.

Section 223(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [to subsec. (a)(10) of this section] shall apply with respect to calendar quarters beginning after June 30, 1967."

Section 224(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to subsec. (a)(13) (other than (A)(ii)) of this section] shall apply with respect to calendar quarters beginning after December 31, 1967."

Section 224(c)(2) of Pub. L. 90–248 provided that: "The amendment made by paragraph (1) of this subsection [amending subsec. (a)(13)(A) of this section] shall apply with respect to calendar quarters beginning after June 30, 1970."

Section 227(b) of Pub. L. 90–248 provided that: "The amendments made by this section [enacting subsec. (a)-(23) of this section] shall apply with respect to calendar quarters beginning after June 30, 1969; except that such amendments shall apply in the case of Puerto Rico, the Virgin Islands, and Guam only with respect to calendar quarters beginning after June 30, 1972."

Section 229(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [enacting subsec. (a)(25) of this section] shall apply with respect to legal liabilities of third parties arising after March 31, 1968."

Section 234(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) of this section [enacting subsecs. (a)(26)—(28) of this section] (unless otherwise specified in the body of such amendments) shall take effect on January 1, 1969."

Section 235(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [to subsecs. (a)(14), (15) of this section] shall be effective in the case of calendar quarters beginning after December 31, 1967."

Enactment of subsec. (a)(29) by section 236(a) of Pub. L. 90–248 effective July 1, 1970, except as otherwise specified in the text thereof, see section 236(c) of Pub. L. 90–248, set out as a note under section 1396g of this title.

Section 237 of Pub. L. 90–248 provided in part that enactment of subsec. (a)(30) of this section by section 237 shall be effective Apr. 1, 1968.

Section 238 of Pub. L. 90–248 provided in part that amendment of subsec. (a)(17) of this section by section 238 shall be effective July 1, 1969.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(4)(A) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(D) of this title.

NURSING HOMES ELIGIBLE FOR MATCHING FUNDS FOR HOME SERVICES WHEN MEETING STATE LICENSURE REQUIREMENTS AFTER JUNE 30, 1968

Section 234(c) of Pub. L. 90–248 provided that: "Notwithstanding any other provision of law, after June 30, 1968, no Federal funds shall be paid to any State as Federal matching under title [subchapter] I, X, XIV, XVI, or XIX of the Social Security Act [this chapter] for payments made to any nursing home for or on account of any nursing home services provided by such nursing home for any period during which such nursing home is determined not to meet fully all requirements of the State for licensure as a nursing home, except that the Secretary may prescribe a reasonable period or periods of time during which a nursing home which has formerly met such requirements will be eligible for payments which include Federal participation if during such period or periods such home promptly takes all necessary steps to again meet such requirements."

DISTRICT OF COLUMBIA; PLAN FOR MEDICAL ASSISTANCE

Pub. L. 90–227, § 1, Dec. 27, 1967, 81 Stat. 744, provided:

"That (a) the Commissioner of the District of Columbia (hereafter in this Act [enacting this note and material set out as a note under section 1395v of this title] referred to as the 'Commissioner') may submit under title XIX of the Social Security Act [this subchapter] to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') a plan for medical assistance (and any modifications of such plan) to enable the District of Columbia to receive Federal financial assistance under such title for a medical assistance program established by the Commissioner under such plan.

"(b)(1) Notwithstanding any other provision of law, the Commissioner may take such action as may be necessary to submit such plan to the Secretary and to establish and carry out such medical assistance program, except that in prescribing the standards for determining eligibility for and the extent of medical assistance under the District of Columbia's plan for medical assistance, the Commissioner may not (except to the extent required by title XIX of the Social Security Act) [this subchapter]—

"(A) prescribe maximum income levels for recipients of medical assistance under such plan which exceed (i) the title XIX maximum income levels if such levels are in effect, or (ii) the Commissioner's maximum income levels for the local medical assistance program if there are no title XIX maximum income levels in effect; or

"(B) prescribe criteria which would permit an individual or family to be eligible for such assistance if such individual or family would be ineligible, solely by reason of his or its resources, for medical assistance both under the plan of the State of Maryland approved under title XIX of the Social Security Act [this subchapter] and under the plan of the State of Virginia approved under such title.

"(2) For purposes of subparagraph (A) of paragraph (1) of this subsection—

"(A) the term 'title XIX maximum income levels' means any maximum income levels which may be specified by title XIX of the Social Security Act [this subchapter] for recipients of medical assistance under State plans approved under that title;

"(B) the term 'the Commissioner's maximum income levels for the local medical assistance program' means the maximum income levels prescribed for recipients of medical assistance under the District of Columbia's medical assistance program in effect in the fiscal year ending June 30, 1967; and

"(C) during any of the first four calendar quarters in which medical assistance is provided under such plan there shall be deemed to be no title XIX maximum income levels in effect if the title XIX maximum income levels in effect during such quarter are higher than than the Commissioner's maximum income levels for the local medical assistance program."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1315, 1396b, 1396g of this title.

§ 1396b. Payment to States.

(a) Computation of amount.

From the sums appropriated therefor, the Secretary (except as otherwise provided in this section and section 1317 of this title) shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing January 1, 1966—

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1396d (b) of this title) of the total amount expended during such quarter as medical assistance under the State plan (including expenditures for premiums under part B of subchapter XVIII of this chapter, for individuals who are recipients of money payments under a State plan approved under subchapter I, X, XIV, or XVI of this chapter, or part A of subchapter IV of this chapter, and, except in the case of individuals sixty-five years of age or older who are not enrolled under part B of subchapter XVIII of this chapter, other insurance premiums for medical or any other type of remedial care or the cost thereof); plus

(2) an amount equal to 75 per centum of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to compensation or training of skilled professional medical personnel, and staff directly supporting such personnel, of the State agency or any other public agency; plus

(3) an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) Quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965.

(1) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

(2) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) of this section for any State for any quarter beginning after December 31, 1969, shall not take into account any amounts expended as medical assistance with respect to individuals aged 65 or over which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of subchapter XVIII of this chapter.

(c) Federal medical assistance percentage; Federal share of State medical expenses during fiscal year ending June 30, 1965.

(1) If the Secretary finds, on the basis of satisfactory information furnished by a State, that the Federal medical assistance percentage for such State applicable to any quarter in the period beginning January 1, 1966, and ending with the close of June 30, 1969, is less than 105 per centum of the Federal share of medical expenditure by the State during the fiscal year ending June 30, 1965 (as determined under paragraph (2)), then 105 per centum of such Federal share shall be the Federal medical assistance percentage (instead of the percentage determined under section 1396d(b) of this title) for such State for such quarter and each quarter thereafter occurring in such period and prior to the first quarter with respect to which such a finding is not applicable.

(2) For purposes of paragraph (1), the Federal share of medical expenditures by a State during the fiscal year ending June 30, 1965, means the percentage which the excess of—

(A) the total of the amounts determined under sections 303, 603, 1203, 1353, and 1383 of this title with respect to expenditures by such State during such year as aid or assistance under its State plans approved under subchapters I, IV, X, XIV, and XVI of this chapter, over

(B) the total of the amounts which would have been determined under such sections with respect to such expenditures during such year if expenditures as aid or assistance in the form of medical or any other type of remedial care had not been counted,

is of the total expenditures as aid or assistance in the form of medical or any other type of remedial care under such plans during such year.

(d) Estimates of amount of State entitlement; installments; adjustments; overpayment; obligated appropriations.

(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a), (b), and (c) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such

quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection. Expenditures for which payments were made to the State under subsection (a) of this section shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1396a(a)(25) of this title.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(e) Comprehensive care and services for eligible individuals by July 1, 1977.

The Secretary shall not make payments under the preceding provisions of this section to any State unless the State makes a satisfactory showing that it is making efforts in the direction of broadening the scope of the care and services made available under the plan and in the direction of liberalizing the eligibility requirements for medical assistance, with a view toward furnishing by July 1, 1977, comprehensive care and services to substantially all individuals who meet the plan's eligibility standards with respect to income and resources, including services to enable such individuals to attain or retain independence or self-care.

(f) Limitation on Federal participation in medical assistance.

(1) (A) Except as provided in paragraph (4), payment under the preceding provisions of this section shall not be made with respect to any amount expended as medical assistance in a calendar quarter, in any State, for any member of a family the annual income of which exceeds the applicable income limitation determined under this paragraph.

(B) (i) Except as provided in clause (ii) of this subparagraph, the applicable income limitation with respect to any family is the amount determined, in accordance with standards prescribed by the Secretary, to be equivalent to 133⅓ percent of the highest amount which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under Part A of subchapter IV of this chapter.

(ii) If the Secretary finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust the amount otherwise determined under clause (i) to take account of families of different sizes.

(C) The total amount of any applicable income limitation determined under subparagraph (B) shall, if it is not a multiple of $100 or such other amount as the Secretary may prescribe, be rounded to the next higher multiple of $100 or such other amount, as the case may be.

(2) In computing a family's income for purposes of paragraph (1), there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family for medical care or for any other type of remedial care recognized under State law.

(3) For purposes of paragraph (1)(B), in the case of a family consisting of only one individual, the "highest amount which would ordinarily be paid" to such family under the State's plan approved under part A of subchapter IV of this chapter shall be the amount determined by the State agency (on the basis of reasonable relationship to the amounts payable under such plan to families consisting of two or more persons) to be the amount of the aid which would ordinarily be payable under such plan to a family without any income or resources) consisting of one person if such plan (without regard to section 608 of this title) provided for aid to such a family.

(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual who, at the time of the provision of the medical assistance giving rise to such expenditure—

(A) is a recipient of aid or assistance under a plan of such State which is approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, or

(B) is not a recipient of aid or assistance under such a plan but (i) is eligible to receive such aid or assistance, or (ii) would be eligible to receive such aid or assistance if he were not in a medical institution.

(Aug. 14, 1935, ch. 531, title XIX, § 1903, as added July 30, 1965, Pub. L. 89-97, title I, § 121(a), 79 Stat. 349, and amended Jan. 2, 1968, Pub. L. 90-248, title II, §§ 220(a), 222(c), (d), 225(a), 229(c), 241(f)(5), 81 Stat. 898, 901, 902, 904, 917; June 28, 1968, Pub. L. 90-364, title III, § 303(a)(1), 82 Stat. 274; Aug. 9, 1969, Pub. L. 91-56, § 2(a), 83 Stat. 99.)

REFERENCES IN TEXT

Section 1317 of this title, referred to in subsec. (a), was repealed by Pub. L. 90-248, title II, § 221(d), Jan. 2, 1968, 81 Stat. 900.

AMENDMENTS

1969—Subsec. (e). Pub. L. 91-56 extended from July 1, 1975, to July 1, 1977, the date by which comprehensive care and services for eligible individuals must be made available for a State to be eligible for payments.

1968—Subsec. (a)(1). Pub. L. 90-248, § 222(d), substituted "and, except in the case of individuals sixty-five years of age or older who are not enrolled under part B of subchapter XVIII of this chapter, other insurance premiums" for "and other insurance premiums".

Pub. L. 90-248, § 241(f)(5), deleted "IV," after "I," and inserted "or part A of subchapter IV of this chapter," after "XVI of this chapter,".

Subsec. (a)(2). Pub. L. 90–248, § 225(a), substituted "of the State agency or any other public agency" for "of the State agency (or of the local agency administering the State plan in the political subdivision)".

Subsec. (b). Pub. L. 90–248, § 222(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 90–364 substituted "1969" for "1967".

Subsec. (d)(2). Pub. L. 90–248, § 229(c), provided for treatment of expenditures for which payments were made to the State under subsec. (a) as an overpayment to the extent that the State or local agency administering the plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1396a(a)(25) of this title.

Subsec. (f). Pub. L. 90–248, § 220(a), added subsec. (f).

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 220(b) of Pub. L. 90–248 provided that:

"(b)(1) In the case of any State whose plan under title XIX of the Social Security Act [this subchapter] is approved by the Secretary of Health, Education, and Welfare under section 1902 [section 1396a of this title] after July 25, 1967, the amendment made by subsection (a) [enacting subsec. (f) of this section] shall apply with respect to calendar quarters beginning after the date of enactment of this Act. [Jan. 2, 1968].

"(2) In the case of any State whose plan under title XIX of the Social Security Act [this subchapter] was approved by the Secretary of Health, Education, and Welfare under section 1902 of the Social Security Act [section 1396a of this title] prior to July 26, 1967, amendments made by subsection (a) [enacting subsec. (f) of this section] shall apply with respect to calendar quarters beginning after June 30, 1968, except that—

"(A) with respect to the third and fourth calendar quarters of 1968, such subsection shall be applied by substituting in subsection (f) of section 1903 of the Social Security Act [subsec. (f) of this section] 150 percent for 133½ percent each time such latter figure appears in such subsection (f), and

"(B) with respect to all calendar quarters during 1969, such subsection shall be applied by substituting in subsection (f) of section 1903 of such Act [subsec. (f) of this section] 140 percent for 133½ percent each time such latter figure appears in such subsection (f)."

Section 222(d) of Pub. L. 90–248, as amended by section 303(a)(2) of Pub. L. 90–364, provided in part that amendment of subsec. (a)(1) of this section by such section 222(d) shall be effective with respect to calendar quarters beginning after December 31, 1969.

Section 225(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) [to subsec. (a)(2) of this section] shall apply with respect to expenditures made after December 31, 1967."

Section 303(b) of Pub. L. 90–364 provided that: "The amendments made by subsection (a) [amending subsec. (b)(2) of this section] shall be effective with respect to calendar quarters beginning after December 31, 1967."

COMPREHENSIVE CARE AND SERVICES FOR ELIGIBLE INDIVIDUALS BY JULY 1, 1977; REQUIREMENT INAPPLICABLE FOR ANY PERIOD PRIOR TO JULY 1, 1971; REGULATIONS; ADVICE TO STATES

Section 2(b) of Pub. L. 91–56 provided that: "The provisions of section 1903(e) of the Social Security Act [subsec. (e) of this section] shall not apply for any period prior to July 1, 1971. In performing his functions under title XIX of the Social Security Act [this subchapter], the Secretary of Health, Education, and Welfare shall issue regulations and give advice to the States consistent with the preceding sentence."

EXEMPTION OF PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM FROM LIMITATIONS ON FEDERAL PAYMENTS FOR MEDICAL ASSISTANCE

Section 248(d) of Pub. L. 90–248 provided that: "The amendment made by section 220(a) of this Act [enacting subsec. (f) of this section] shall not apply in the case of Puerto Rico, the Virgin Islands, or Guam."

NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DEC. 31, 1969

Section 121(b) of Pub. L. 89–97 provided that: "No payment may be made to an State under title I, IV, X, XIV, or XVI of the Social Security Act [subchapter I, IV, X, XIV, or XVI of this chapter] with respect to aid or assistance in the form of medical or any other type of remedial care for any period for which such State receives payments under title XIX of such Act [this subchapter], or for any period after December 31, 1969."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 643, 1315, 1396a of this title.

§ 1396c. Operation of State plans.

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1396a of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title XIX, § 1904, as added July 30, 1965, Pub. L. 89–97, title I, § 121(a), 79 Stat. 351.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1316 of this title.

§ 1396d. Definitions.

For purposes of this subchapter—

(a) Medical assistance.

The term "medical assistance" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, or XVI, or part A of subchapter IV of this chapter, who are—

(i) under the age of 21,

(ii) relatives specified in section 606(b)(1) of this title with whom a child is living if such child, except for section 606(a)(2) of this title, is (or would, if needy, be) a dependent child under part A of subchapter IV of this chapter,

(iii) 65 years of age or older,

(iv) blind,

(v) 18 years of age or older and permanently and totally disabled, or

(vi) persons essential (as described in the second sentence of this subsection) to individuals receiving aid or assistance under State plans approved under subchapter I, X, XIV, or XVI of this chapter,

but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services (other than services in an institution for tuberculosis or mental diseases);

(2) outpatient hospital services;

(3) other laboratory and X-ray services;

(4) (A) skilled nursing home services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older (B) effective July 1, 1969, such early and periodic screening and diagnosis of individuals who are eligible under the plan and are under the the age of 21 to ascertain their physical or mental defects, and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary;

(5) physicians' services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing home, or elsewhere;

(6) medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

(7) home health care services;

(8) private duty nursing services;

(9) clinic services;

(10) dental services;

(11) physical therapy and related services;

(12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(13) other diagnostic, screening, preventive, and rehabilitative services;

(14) inpatient hospital services and skilled nursing home services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases; and

(15) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary;

except that such term does not include—

(A) any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(B) any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

For purposes of clauses (vi) of the preceding sentence, a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under subchapter I, X, XIV, or XVI of this chapter), and such person is determined, under such a State plan, to be essential to the well being of such individual.

(b) Federal medical assistance percentage; State percentage.

The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1301(a)(8) of this title; except that the Secretary shall promulgate such percentage as soon as possible after July 30, 1965, which promulgation shall be conclusive for each of the six quarters in the period beginning January 1, 1966, and ending with the close of June 30, 1967. (Aug. 14, 1935, ch. 531, title XIX, § 1905, as added July 30, 1965, Pub. L. 89–97, title I, § 121(a), 79 Stat. 351, and amended Jan. 2, 1968, Pub. L. 90–248, title II, §§ 230, 233, 241(f)(6), 248(e), title III, § 302(a), 81 Stat. 905, 917, 919, 929.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–248, § 230, inserted after "for individuals" in the text preceding cl. (i) ", and with respect to physicians' or dentists' services, at the option of the State, to individuals not receiving aid or assistance under the State's plan approved under subchapter I, X, XIV, XVI of this chapter, or part A of subchapter IV of this chapter."

Pub. L. 90–248, § 233(b), added provision deeming, for purposes of cl. (vi) of the preceding sentence, a person as essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under subchapter I, X, XIV, or XV of this chapter, and such person is determined, under such a State plan, to be essential to the well being of such individual.

Subsec. (a)(ii). Pub. L. 90–248, § 241(f)(6), inserted "part A of" before "subchapter IV".

Subsec. (a)(vi). Pub. L. 90–248, § 233(a), added cl. (vi).

Subsec. (a)(4). Pub. L. 90–248, § 302(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (b). Pub. L. 90–248, § 248(e), substituted in clause (2) of first sentence "50" for "55".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 248(e) of Pub. L. 90–248 provided in part that amendment of subsec. (b) of this section by such section 248(e) shall be effective with respect to quarters after 1967.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1318, 1320a, 1396a, 1396b of this title.

§ 1396e. Advisory Council on Medical Assistance; creation; composition; appointment of members; Chairman; representative activities and interests; majority representation of consumers; terms of office; special advisory professional or technical committees; compensation and travel expenses; meetings.

For the purpose of advising the Secretary on matters of general policy in the administration of this subchapter (including the relationship of this subchapter and subchapter XVIII of this chapter) and making recommendations for improvements in such administration, there is hereby created a Medical Assistance Advisory Council which shall consist of twenty-one persons, not otherwise in the employ of

the United States, appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include representatives of State and local agencies and nongovernmental organizations and groups concerned with health, and of consumers of health services, and a majority of the membership of the Advisory Council shall consist of representatives of consumers of health services. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and six at the end of the fourth year after the date of appointment. A member shall not be eligible to serve continuously for more than two terms. The Secretary may, at the request of the Council or otherwise, appoint such special advisory professional or technical committees as may be useful in carrying out this subchapter. Members of the Advisory Council and members of any such advisory or technical committee, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council or of such committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. The Advisory Council shall meet as frequently as the Secretary deems necessary. Upon request of five or more members, it shall be the duty of the Secretary to call a meeting of the Advisory Council. (Aug. 14, 1935, ch. 531, title XIX, § 1906, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 226, 81 Stat. 903.)

§ 1396f. Observance of religious beliefs.

Nothing in this subchapter shall be construed to require any State which has a plan approved under this subchapter to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds. (Aug. 14, 1935, ch. 531, title XIX, § 1907, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 232, 81 Stat. 905.)

§ 1396g. State programs for licensing of administrators of nursing homes.

(a) Nature of State program.

For purposes of section 1396a(a)(29) of this title, a "State program for the licensing of administrators of nursing homes" is a program which provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

(b) Licensing by State agency or board representative of concerned professions and institutions.

Licensing of nursing home administrators shall be carried out by the agency of the State responsible for licensing under the healing arts licensing act of the State, or, in the absence of such act or such an agency, a board representative of the professions and institutions concerned with care of chronically ill and infirm aged patients and established to carry out the purposes of this section.

(c) Functions and duties of State agency or board.

It shall be the function and duty of such agency or board to—

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(d) Waiver of standards other than good character or suitability standards.

No State shall be considered to have failed to comply with the provisions of section 1396a(a)(29) of this title because the agency or board of such State (established pursuant to subsection (b) of this section) shall have granted any waiver, with respect to any individual who during all of the calendar year immediately preceding the calendar year in which

the requirements prescribed in section 1396a(a)(29) of this title are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such board pursuant to subsection (b)(1) of this section other than such standards as relate to good character or suitability if—

(1) such waiver is for a period which ends after being in effect for two years or on June 30, 1972, whichever is earlier, and

(2) there is provided in the State (during all of the period for which waiver is in effect), a program of training and instruction designed to enable all individuals, with respect to whom any such waiver is granted, to attain the qualifications necessary in order to meet such standards.

(e) Authorization of appropriations; limitation of grants.

(1) There are hereby authorized to be appropriated for fiscal year 1968 and the four succeeding fiscal years such sums as may be necessary to enable the Secretary to make grants to States for the purpose of assisting them in instituting and conducting programs of training and instruction of the type referred to in subsection (d)(2) of this section.

(2) No grant with respect to any such program shall exceed 75 per centum of the reasonable and necessary cost, as determined by the Secretary, of instituting and conducting such program.

(f) National Advisory Council on Nursing Home Administration; creation; composition; appointment of members; Chairman; representation of interests; functions and duties; compensation and travel expenses; technical assistance; availability of assistance and data; termination date.

(1) For the purpose of advising the Secretary and the States in carrying out the provisions of this section, there is hereby created a National Advisory Council on Nursing Home Administration which shall consist of nine persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive service. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include, but not be limited to, representatives of State health officers, State welfare directors, nursing home administrators, and university programs in public health or medical care administration.

(2) In addition to the function stated in paragraph (1) of this subsection, it shall be the function and duty of the Council (A) to study and identify the core of knowledge that should constitute minimally the training in the field of institutional administration which should qualify an individual to serve as a nursing home administrator; (B) to study and identify the experience in the field of institutional administration that a nursing home administrator should be required to possess; (C) to study and develop model techniques for determining whether an individual possesses such qualifications; (D) to study and develop model criteria for granting waivers under the provisions of subsection (d) of this section; (E) to study and develop suggested programs of training referred to in subsection (d) of this section; (F) to study, develop, and recommend programs of training and instruction for those desiring to pursue a career in nursing home administration; (G) to complete the functions in (A) through (E) above by July 1, 1969, and submit a written report to the Secretary which report shall be submitted to the States to assist them in carrying out the provisions of this section.

(3) Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(4) The Secretary may at the request of the Council engage such technical assistance as may be required to carry out its functions; and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the Council may require to carry out its functions.

(5) The Council shall be appointed by the Secretary prior to July 1, 1968, and shall cease to exist as of December 31, 1971.

(g) Definitions.

As used in this section, the term—

(1) "nursing home" means any institution or facility defined as such for licensing purposes under State law, or, if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary; and

(2) "nursing home administrator" means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

(Aug. 14, 1935, ch. 531, title XIX, § 1908, as added Jan. 2, 1968, Pub. L. 90–248, title II, § 236(b), 81 Stat. 908.)

EFFECTIVE DATE

Section 236(c) of Pub. L. 90–248 provided that: "Except as otherwise specified in the text thereof, the amendments made by this section [enacting this section and section 1396a(a)(29) of this title] shall take effect on July 1, 1970."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1396a of this title.

Chapter 7A.—TEMPORARY UNEMPLOYMENT COMPENSATION PROGRAM

§§ 1400 to 1400v. Omitted.

Sections 1400 to 1400k and 1400*l* to 1400v, respectively, provided for two programs of temporary payment of unemployment compensation for periods of unemployment between June 4, 1958, and July 1, 1959, and between March 24, 1961, and June 30, 1962, and have been omitted as executed. The popular names of the enactments under which provisions for the two programs referred to were made were the "Temporary Unemployment Compensation Act of 1958", Pub. L. 85–441, June 4, 1958, 72 Stat. 171, and the "Temporary Extended Unemployment Compensation Act of 1961", Pub. L. 87–6, Mar. 24, 1961, 75 Stat. 8.

Section 1400, Pub. L. 85–441, title I, § 101, June 4, 1958, 72 Stat. 171; Pub. L. 86–7, Mar. 31, 1959, 73 Stat. 14, authorized the payment of temporary unemployment compensation under sections 1400 to 1400k of this title to persons who exhausted their rights under other unemployment compensation laws.

Section 1400a, Pub. L. 85–441, title I, § 102, June 4, 1958, 72 Stat. 172, authorized the Secretary to enter into agreements with States for the payment of the temporary unemployment compensation provided for in sections 1400 to 1400k of this title.

Section 1400b, Pub. L. 85–441, title I, § 103, June 4, 1958, 72 Stat. 173, made special provision for veterans and Federal employees and for fair hearing and review in the denial of such benefits.

Section 1400c, Pub. L. 85–441, title I, § 104, June 4, 1958, 72 Stat. 173; Pub. L. 86–778, title V, § 524(b), Sept. 13, 1960, 74 Stat. 982; Pub. L. 88–173, § 2, Nov. 7, 1963, 77 Stat. 306, provided for the repayment of the amounts of any temporary unemployment compensation benefits, except benefits paid to veterans and Federal employees, paid under sections 1400 to 1400k of this title through the device of reduction of credits allowed under section 3302 of Title 26.

Section 1400d, Pub. L. 85–441, title II, § 201, June 4, 1958, 72 Stat. 174, defined the terms "Secretary", "State", and "first claim" as used in sections 1400 to 1400k of this title.

Section 1400e, Pub. L. 85–441, title II, § 202, June 4, 1958, 72 Stat. 174, provided for review by the appropriate State agency with respect to determinations of entitlement to temporary unemployment compensation under sections 1400 to 1400k of this title.

Section 1400f, Pub. L. 85–441, title II, § 203, June 4, 1958, 72 Stat. 174, set out penalties for false statements or representations in connection with payments under sections 1400 to 1400k of this title and provided for the recovery of overpayments.

Section 1400g, Pub. L. 85–441, title II, § 204, June 4, 1958, 72 Stat. 175, required each State to provide the Secretary with whatever information he might require in administering sections 1400 to 1400k of this title.

Section 1400h, Pub. L. 85–441, title II, § 205, June 4, 1958, 72 Stat. 175, provided for the payments to States of funds for the benefits under sections 1400 to 1400k of this title, the posting of requisite bonds in connection therewith, and the liability of certifying and disbursing officers.

Section 1400i, Pub. L. 85–441, title II, § 206, June 4, 1958, 72 Stat. 176, provided for the denial of benefits under sections 1400 to 1400k of this title to aliens employed by Communist governments or organizations.

Section 1400j, Pub. L. 85–441, title II, § 207, June 4, 1958, 72 Stat. 176, authorized the promulgation of rules and regulations by the Secretary to carry out the provisions of sections 1400 to 1400k of this title.

Section 1400k, Pub. L. 85–441, title II, § 208, June 4, 1958, 72 Stat. 176, authorized the appropriation of funds necessary to carry out sections 1400 to 1400k of this title.

Section 1400*l*, Pub. L. 87–6, § 2, Mar. 24, 1961, 75 Stat. 8, defined the terms "compensation period", "first claim", "State unemployment compensation", "Secretary", "State", "State agency", "State law", "temporary extended unemployment compenstion", "title XV", and "week" as they are used in sections 1400*l* to 1400v of this title.

Section 1400m, Pub. L. 87–6, § 3, Mar. 24, 1961, 75 Stat. 8, provided for the payment of temporary extended unemployment conpensation benefits under sections 1400*l* to 1400v of this title for any period of unemployment between March 24, 1961 and June 30, 1962.

Section 1400n, Pub. L. 87–6, § 4, Mar. 24, 1961, 75 Stat. 9, provided for the reimbursement by the Federal government of any State unemployment compensation paid under sections 1400*l* to 1400v of this title in excess of the formula amount.

Section 1400*o*, Pub. L. 87–6, § 5, Mar. 24, 1961, 75 Stat. 9, placed limitations on total payments and reimbursements under sections 1400*l* to 1400v of this title.

Section 1400p, Pub. L. 87–6, § 6, Mar. 24, 1961, 75 Stat. 10, set out the covered period for benefits under sections 1400*l* to 1400v of this title as Mar. 24, 1961, to June 30, 1962.

Section 1400q, Pub. L. 87–6, § 7, Mar. 24, 1961, 75 Stat. 10, covered the agreements with States for the payment and reimbursement of temporary unemloyment compensation under sections 1400*l* to 1400v of this title, the amendment, suspension, or termination of such an agreement, denial of benefits, review of determinations by State agencies, and the reduction of benefits in certain cases.

Section 1400r, Pub. L. 87–6, § 8, Mar. 24, 1961, 75 Stat. 12, provided for the payment of benefits under sections 1400*l* to 1400v of this title to veterans and Federal employees.

Section 1400s, Pub. L. 87–6, § 9, Mar. 24, 1961, 75 Stat. 12, set out penalties for making false statements or representations in connection with benefits under sections 1400*l* to 1400v of this title and provided for the recovery of overpayments.

Section 1400t, Pub. L. 87–6, § 10, Mar. 24, 1961, 75 Stat. 13, required each State to furnish the Secretary with the information required to administer the program under sections 1400*l* to 1400v of this title.

Section 1400u, Pub. L. 87–6, § 11, Mar. 24, 1961, 75 Stat. 13, made provision for payments to States under sections 1400*l* to 1400v of this title, certification by the Secretary to the Secretary of the Treasury for payment of sums to each State, surety bonds, liability of certifying and disbursing officers, and costs of administration.

Section 1400v, Pub. L. 87–6, § 12, Mar. 24, 1961, 75 Stat. 14, authorized the promulgation by the Secretary of rules and regulations necessary to carry out sections 1400*l* to 1400v of this title.

Chapter 8.—LOW-RENT HOUSING

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 20 section 645.

§ 1401. Declaration of policy.

It is declared to be the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this chapter, to assist the several States and their political subdivisions to alleviate present and recurring unemployment and to remedy the unsafe and insanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of low income, in urban, rural nonfarm, and Indian areas, that are injurious to the health, safety, and morals of the citizens of the Nation. In the development of low-rent housing it shall be the policy of the United States to make adequate provision for larger families and for families consisting of elderly persons. It is the policy of the United States to vest in the local public housing agencies the maximum amount of responsibility in the administration of the low-rent housing program, including responsibility for the establishment of rents and eligibility requirements (subject to the approval of the Authority), with due consideration to accomplishing the objectives of this chapter while effecting economies. It is the sense of the Congress that no person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-rent housing project. (Sept. 1, 1937, ch. 896, § 1, 50 Stat. 888; July 15, 1949, ch. 338, title III, § 307(a), 63 Stat. 429; Sept. 23, 1959, Pub. L. 86-372, title V, § 501, 73 Stat. 679; Aug. 1, 1968, Pub. L. 90-448, title II, § 206(a), 82 Stat. 504; Dec. 31, 1970, Pub. L. 91-609, title II, § 211, 84 Stat. 1779.)

AMENDMENTS

1970—Pub. L. 91-609 inserted policy statement against barring any person from serving on board of directors or similar governing body of a local public housing agency because of his tenancy in a low-rent housing project.

1968—Pub. L. 90-448 included families of low income in Indian areas.

1959—Pub. L. 86-372 provided that in the development of low-rent housing it shall be the policy of the United States to make adequate provision for larger families and for families consisting of elderly persons, and that it is the policy of the United States to vest in the local public housing agencies the maximum amount of responsibility in the administration of the low-rent housing program.

1949—Act July 15, 1949, substituted "urban and rural nonfarm areas" for "rural or urban communities."

EQUAL OPPORTUNITY IN HOUSING

Executive order relating to equal opportunity in housing, see Ex. Ord. No. 11063, Nov. 20, 1962, 27 F.R. 11527, set out as a note under section 1982 of this title.

CROSS REFERENCES

Veterans, aid in housing accommodations, see section 1738 et seq. of Title 12, Banks and Banking.

§ 1402. Definitions.

When used in this chapter—

(1) Low-rent housing; eligibility; continued occupancy; income-exclusions and deductions.

The term "low-rent housing" means decent, safe, and sanitary dwellings within the financial reach of families of low income, and developed and administered to promote serviceability, efficiency, economy, and stability, and embraces all necessary appurtenances thereto. The dwellings in low-rent housing shall be available solely for families of low income. Except as otherwise provided in section 1421b of this title, income limits for occupancy and rents (which may not exceed one-fourth of the family's income, as defined by the Secretary) shall be fixed by the public housing agency and approved by the Authority after taking into consideration (A) the family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and (B) the economic factors which affect the financial stability and solvency of the project.

In defining income for purposes of applying the one-fourth of family income limitation set forth above, the Secretary shall consider income from all sources of each member of the family residing in the household who is at least eighteen years of age; except that (A) nonrecurring income, as determined by the Secretary, and the income of full-time students shall be excluded; (B) an amount equal to the sum of (i) $300 for each dependent, (ii) $300 for each secondary wage earner, (iii) 5 per centum of the family's gross income (10 per centum in the case of elderly families), and (iv) those medical expenses of the family properly considered extraordinary shall be deducted; and (C) the Secretary may allow further deductions in recognition of unusual circumstances.

(2) Families of low income, families, elderly families, displaced families, large families, and families of unusually low income.

The term "families of low income" means families (including elderly and displaced families) who are in the lowest income group and who cannot afford to pay enough to cause private enterprise in their locality or metropolitan area to build an adequate supply of decent, safe, and sanitary dwellings for their use. The term "families" includes families consisting of a single person in the case of elderly families and displaced families, and includes the remaining member of a tenant family. The term "elderly families" means families whose heads (or their spouses), or whose sole members, have attained the age at which an individual may elect to receive an old-age benefit under title II of the Social Security Act, or are under a disability as defined in section 423 of this title, or are handicapped within the meaning of section 1701q of Title 12. The term "displaced families" means families displaced by urban renewal or other governmental action, or families whose present or former dwellings are situated in areas determined by the Small Business Administration, subsequent to April 1, 1965, to have been affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster. The term "large families" means families which include four or more minors. The term "families of unusually low income" means families with incomes below the income level established by the public housing agency, as approved by the Authority, who could not be housed without the additional subsidy authorized under section 1410(a) of this title.

(3) Slum.

The term "slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ven-

tilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

(4) Slum clearance.

The term "slum clearance" means the demolition and removal of buildings from any slum area.

(5) Development; office space for renewal functions.

The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-rent housing project. The term "development cost" shall comprise the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges, but not beyond the point of physical completion), and in otherwise carrying out the development of such project. Construction activity in connection with a low-rent housing project may be confined to the reconstruction, remodeling, or repair of existing buildings. In cases where the public housing agency is also the local public agency for the purposes of title I of the Housing Act of 1949, or in cases where the public housing agency and the local public agency for purposes of such sections operate under a combined central administrative office staff, an administration building included in a low-rent housing project to provide central administrative office facilities may also include sufficient facilities for the administration of the functions of such local public agency, and in such case, the Authority shall require that an economic rent shall be charged for the facilities in such building which are used for the administration of the functions of such local public agency and shall be paid from funds derived from sources other than the low-rent housing projects of such public housing agency.

(6) Administration; tenant programs and services.

The term "administration" means any or all undertakings necessary for management, operation, maintenance, or financing, in connection with a low-rent-housing or slum-clearance project, subsequent to physical completion. The term also means the financing of tenant programs and services for families residing in low-rent housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-rent housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(7) Federal project.

The term "Federal project" means any project owned or administered by the Authority.

(8) Acquisition cost.

The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring a low-rent-housing or slum-clearance project.

(9) Non-dwelling facilities.

The term "non-dwelling facilities" shall include site development, improvements and facilities located outside building walls (including streets, sidewalks, and sanitary, utility, and other facilities).

(10) Going Federal rate.

The term "going Federal rate" means the annual rate of interest (or, if there shall be two or more such rates of interest, the highest thereof) specified in the most recently issued bonds of the Federal Government having a maturity of ten years or more, determined, in the case of loans or annual contributions, respectively, at the date of Presidential approval of the contract pursuant to which such loans or contributions are made: *Provided,* That with respect to any loans or annual contributions made pursuant to a contract approved by the President after the first annual rate has been specified as provided in this proviso, the term "going Federal rate" means the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (beginning with the six-month period ending December 31, 1953) during which the contract is approved by the President, which applicable rate for each six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May or November, and by adjusting such estimated average annual yield to the nearest one-eighth of one per centum: *And provided further,* That for the purposes of this chapter, the going Federal rate shall be deemed to be not less than 2½ per centum.

(11) Public housing agency.

The term "public housing agency" means any State, county, municipality, or other governmental entity or public body (excluding the Authority), which is authorized to engage in the development or administration of low-rent housing or slum clearance. The Authority shall enter into contracts for financial assistance with a State or State agency where such State or State agency makes application for such assistance for an eligible project which, under the applicable laws of the State, is to be developed and administered by such State or State agency.

(12) State.

The term "State" includes the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States.

(13) Authority.

The term "Authority" means the United States Housing Authority created by section 1403 of this title.

(14) Initiated.

The term "initiated" when used in reference to the date on which a project was initiated refers to the date of the first contract for financial assistance in respect to such project entered into by the Administration and the public housing agency. (Sept. 1, 1937, ch. 896, § 2, 50 Stat. 888; July 15, 1949, ch. 338, title III, §§ 302 (b), 304 (c), (i), 306, 307 (b), 63 Stat. 424, 425, 429; Oct. 26, 1951, ch. 577, § 1, 65 Stat. 647; June 30, 1953, ch. 170, § 24 (c), 67 Stat. 128; Aug. 7, 1956, ch. 1029, title IV, § 404(a), 70 Stat. 1104; July 12, 1957, Pub. L. 85–104, title III, § 307, title IV, § 401 (a), 71 Stat. 301; Sept. 23, 1959, Pub. L. 86–372, title V, §§ 502, 503(a), 504, 73 Stat. 680; June 30, 1961, Pub. L. 87–70, title II, § 202, 75 Stat. 163; Sept. 2, 1964, Pub. L. 88–560, title II, § 203 (d), title IV, § 401(a), 78 Stat. 784, 794; Aug. 10, 1965, Pub. L. 89–117, title I, §§ 103(b), 104, 79 Stat. 457; Aug. 1, 1968, Pub. L. 90–448, title II, § 209(a), 82 Stat. 505; Dec. 24, 1969, Pub. L. 91–152, title II, § 213(a), title IV, § 403(a), 83 Stat. 389, 395; Dec. 31, 1970, Pub. L. 91–609, title II, § 208(a), title IX, § 903 (c), 84 Stat. 1778, 1808.)

REFERENCES IN TEXT

Title II of the Social Security Act, referred to in par. (2), is classified to section 401 et. seq. of this title.

The Housing Act of 1949, referred to in par. (5), is act July 15, 1949, ch. 338, 63 Stat. 413. Title I thereof is classified to sections 1450, 1451, 1452, 1453–1455, 1456–1460, and 1462–1469c of this title.

AMENDMENTS

1970—Par. (1). Pub. L. 91–609 provided for consideration of income from all sources in defining income for purposes of applying the one-fourth of family income limitation and also for certain exclusions and deductions from income.

Par. (6). Pub. L. 91–609 defined "administration" to also mean the financing of tenant programs and services for families residing in low-rent housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services and defined "tenant programs and services", provisions formerly incorporated in former section 1415(10) of this title.

1969—Par. (1). Pub. L. 91–152, § 213(a), added the provision that rents not exceed one-fourth of the family's income, as defined by the Secretary.

Par. (12). Pub. L. 91–152, § 403(a), included within the term "State" the Commonwealth of Puerto Rico and the Trust Territory of the Pacific Islands, and omitted from such term reference to dependencies.

1968—Par. (2). Pub. L. 90–448 inserted the definitions of "large families" and "families of unusually low income."

1965—Par. (1). Pub. L. 89–117, § 103(b), substituted "Except as otherwise provided in section 1421b of this title, income limits for occupancy and rents" for "Income limits for occupancy and rents."

Par. (2). Pub. L. 89–117, § 104, substituted "and includes the remaining member of a tenant family" for "and includes a single person who is handicapped within the meaning of section 1701q of Title 12 or who is the remaining member of a tenant family", inserted "or are handicapped within the meaning of section 1701q of Title 12", and included families whose present or former dwellings are situated in areas affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster within the term "displaced families".

1964—Par. (2). Pub. L. 88–560 redefined "families of low income" to include elderly and displaced families, "families" by substituting "includes families consisting of a single person in the case of elderly families and displaced families, and includes" for "means families consisting of two or more persons, a single person who has attained retirement age as defined in section 416(a) of this title, or who is under a disability as defined in section 423 of this title, or the", "elderly families" by including "sole members", and defined "displaced families."

1961—Par. (2). Pub. L. 87–70 eliminated words "has attained the age of fifty and" which preceded "is under a disability" in two instances.

Par. (14). Pub. L. 87–70 redesignated former par. (15) as par. (14) and eliminated former par. (14) which defined the terms "veteran" and "serviceman."

Par. (15). Pub. L. 87–70 redesignated former par. (15) as (14).

1959—Par. (1). Pub. L. 86–372, § 503(a), substituted provisions requiring income limits for occupancy and rents to be fixed by the public housing agency and approved by the Authority after taking into consideration the family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and the economic factors which affect the financial stability and solvency of the project, for provisions which restricted dwellings to families whose net annual income at the time of admission, less an exemption of (a) $100 for each adult dependent member of the family having no income and for each minor (other than the head of the family and his spouse), and (b) not to exceed $600 of the income of each member of the family other than the principal wage earner, does not exceed five times the annual rental (including the value or cost to them of water, electricity, gas, other heating and cooking fuels, and other utilities) of the dwellings to be furnished such families, and eliminated provisions which granted certain exemptions for continued occupancy.

Par. (2). Pub. L. 86–372, § 504, substituted "a single person who has attained retirement age as defined in section 416(a) of this title or who has attained the age of fifty and is under a disability as defined in section 423 of this title" for "a single person sixty-five years of age or over", and "the head of which (or his spouse) has attained retirement age as defined in section 416(a) of this title or has attained the age of fifty and is under a disability as defined in section 423 of this title" for "the head of which (or his spouse) is sixty-five years of age or over."

Par. (5). Pub. L. 86–372, § 502, added provisions relating to administrative office facilities in cases where the public housing agency and the local public agency operate under a combined central administrative office staff.

1957—Par. (1). Pub. L. 85–104, § 401(a), for purposes of availability of low-rent housing, provided additional exemptions of up to $100 for each adult dependent with no income, and up to $600 of the income of each member of the family other than the principal wage earner, and, for continued occupany of low-rent housing, provided additional exemptions of $100 for each adult member of the family having no income, and up to $600 of the income of any other adult member of the family other than the principal wage earner.

Par. (5). Pub. L. 85–104, § 307 added provisions that where public housing agency is also the local public agency for purposes of section 1450 et seq. of this title, public housing administration building may include facilities for administration of its functions as such local public agency at a rent payable from sources other than the low-rent housing projects of such agency.

1956—Par. (2). Act Aug. 7, 1956, added definitions of "families" and "elderly families".

1953—Par. (10). Act June 30, 1953, caused the minimum base interest rate, under the definition of "Going Federal rate", to:

1. Reflect market yields on Government bonds, instead of interest rates specified in the bonds when issued with a minimum of 2½ percent.

2. Reflect the yield on obligations of the United States having 15 years or more to run to maturity, instead of the rate on a bond which could have a maturity as low as 10 years.

3. Reflect the average yield during a full 1-month period on all outstanding obligations of the United States having 15 years or more to run to maturity, instead of the rate on a single recent issue of bonds;

4. Retain the base rate, once it was specified by the Secretary of the Treasury, instead of varying from month to month as new bonds are issued; and

5. Be adjusted to the nearest one-eighth of 1 percent.

1951—Par. (14). Act Oct. 26, 1951, redefined veteran and serviceman to include Korean veterans.

1949—Par. (1). Act July 15, 1949, § 306, deleted former second sentence and inserted in lieu thereof a second, third, and fourth sentence.

Par. (5). Act July 15, 1949, § 304(i), added definition of "development cost".

Par. (10). Act July 15, 1949, § 304(c), defined "Going Federal rate".

Par. (11). Act July 15, 1949, § 307(b)(1), added second sentence.

Par. (14). Act July 15, 1949, § 302(b), added par. (14).

Par. (15). Act July 15, 1949, § 307(b)(2), added par. (15).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 208(b) of Pub. L. 91–609 provided that: "The income definition contained in the last sentence of the second paragraph of section 2(1) of the Housing Act of 1937, as added by subsection (a) of this section [par. (1) of this section], shall be effective at the first annual reexamination of the tenant's income subsequent to Mar. 24, 1971."

EFFECTIVE DATE OF 1969 AMENDMENT; APPLICABILITY

Section 213(b) of Pub. L. 91–152 provided that: "The requirement in section 2(1) of the United States Housing Act of 1937 [par. (1) of this section] that the rents fixed by public housing agencies may not exceed one-fourth of a low-rent housing tenant's income shall be effective not later than ninety days following the date of the enactment of this Act [Dec. 24, 1969]. The requirements shall not apply in any case in which the Secretary of Housing and Urban Development determines that limiting the rent of any tenant or class of tenants, as provided by such section 2(1), will result in a reduction in the amount of welfare assistance which would otherwise be provided to such tenant or class of tenants by a public agency."

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" in pars. (1), (2), (5), (7), (11), and (13) and "Public Housing Administration" was substituted for "United States Housing Authority created by section 1403 of this title" in par. (13) pursuant to 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in note under section 1403 of this title. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. "Administration" was removed and "Authority", meaning the United States Housing Authority, restored throughout the section therefor pursuant thereto. See section 3531 note of this title.

For prior transfers of functions, see notes under section 1403 of this title.

PURPOSE OF 1957 AMENDMENT

Pub. L. 85–104, § 401 (a), provided in part that the amendment of par. (1) of this section was "In order to enable low-rent housing to serve more effectively the needs of large families of low income".

ACTIVE MILITARY OR NAVAL SERVICE

Proc. No. 3080, Jan. 5, 1955, 20 F. R. 173, fixed Feb. 1, 1955, as the date prior to which persons must have served in the active military or naval service in order that such persons come within the meaning of the terms "veteran" and "serviceman", contained in former par. (14) of this section, by reason of service on or after June 27, 1950.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 1412, 1504, 1586 of this title; title 12 sections 1701s, 1701z–3, 1715z, 1715z–1.

§ 1403. United States Housing Authority.

There is hereby created in the Department of Housing and Urban Development the United States Housing Authority, which shall be an agency and instrumentality of the United States. The functions, powers, and duties of the Authority are vested in and shall be exercised by the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"). No officer or employee of the Department of Housing and Urban Development, in the performance of any such functions, powers, or duties, shall participate in any matter affecting his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested. (Sept. 1, 1937, ch. 893, § 3, 50 Stat. 889; May 25, 1967, Pub. L. 90–19, § 2(b), 81 Stat. 20; Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1719(a), 82 Stat. 610.)

CODIFICATION

Section as originally enacted provided for the creation of a United States Housing Authority and the appointment and compensation of an Administrator therefor. For transfer of functions prior to 1967 amendment, see Transfer of Functions note below.

AMENDMENTS

1968—Pub. L. 90–448 eliminated provisions which made the United States Housing Authority a body corporate with perpetual duration.

1967—Pub. L. 90–19 incorporated in the three sentences of this section former subsecs. (a)–(c), relocating the Housing Authority in the Department of Housing and Urban Development from the Department of the Interior and the general supervision of its Secretary, vesting the powers in the Secretary of Housing and Urban Development rather than in an Administrator appointed by the President with Senate approval, and eliminating provisions from former subsec. (b) relating to term of office and removal for neglect of duty or malfeasance and former subsec. (c) prescribing salary of $10,000 a year for the Administrator permitting reappointment to office, and restricting other business, vocation, or employment.

TRANSFER OF FUNCTIONS

United States Housing Authority and its functions and personnel were transferred to Federal Works Agency, and functions of the Secretary of the Interior relating to administration thereof were transferred to Federal Works Administrator by 1939 Reorg. Plan No. I, §§ 301, 304, eff. July 1, 1939, 4 F.R. 2729, 2730, 53 Stat. 1426, 1427, set out in the Appendix to Title 5, Government Organization and Employees. By Ex. Ord. No. 9070, Feb. 24, 1942, 7 F.R. 1529, all powers, functions, and duties of Federal Works Administrator were transferred during World War II to the Federal Public Housing Authority within the National Housing Agency, under the National Housing Administrator. The National Housing Agency was dissolved upon creation of the Housing and Home Finance Agency by 1947 Reorg. Plan No. 3, set out below.

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, partly set out below. The Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by the Plan. It also transferred to the Housing and

Home Finance Administrator the functions of the Federal Works Administrator with respect to the United States Housing Authority. The Plan is set out in its entirety in the Appendix to Title 5, Government Organization and Employees.

The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

1947 REORGANIZATION PLAN NO. 3

Effective July 27, 1947, 12 F. R. 4981, 61 Stat. 954; amended Aug. 10, 1948, ch. 832, title V, § 501 (a) 62 Stat. 1283; July 31, 1956, ch. 804, title I, § 106, 70 Stat. 737; Aug. 14, 1964, Pub. L. 88–426, title III, § 303(b)(6), 78 Stat. 416; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 655.

The sections of 1947 Reorg. Plan No. 3 set out below related to the creation of the Housing and Home Finance Agency, the transfer thereto, and consolidation therein, of the United States Housing Authority and its functions, the change of name of the latter to the Public Housing Administration, the creation of the office of, and prescription of the functions of, the Public Housing Commissioner, and the abolishment of the office of Administrator of the United States Housing Authority.

§ 1. Housing and Home Finance Agency

The Home Owners' Loan Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, the United States Housing Authority, the Defense Homes Corporation, and the United States Housing Corporation, together with their respective functions, the functions of the Federal Home Loan Bank Board, and the other functions transferred by this plan, are consolidated, subject to the provisions of sections 2 to 5, inclusive, hereof, into an agency which shall be known as the Housing and Home Finance Agency. There shall be in said Agency constituent agencies which shall be known as the Home Loan Bank Board, the Federal Housing Administration, and the Public Housing Administration.

§ 4. Public Housing Administration

The Public Housing Administration shall be headed by a Public Housing Commissioner who shall be appointed by the President, by and with the advice and consent of the Senate, and receive compensation at the rate of $30,000 per annum. There are transferred to said Commissioner the functions—

(a) Of the Administrator of the United States Housing Authority (which agency shall hereafter be administered and known as the Public Housing Administration);

(b) Of the National Housing Agency with respect to non-farm housing projects and other properties remaining under its jurisdiction pursuant to section 2 (a) (3) of the Farmers' Home Administration Act of 1946 (Public Law 731, Seventy-ninth Congress, approved August 14, 1946); and

(c) With respect to the liquidation and dissolution of the Defense Homes Corporation.

§ 9. Abolitions

The Federal Home Loan Bank Board, the Board of Directors of the Home Owners' Loan Corporation, and the Board of Trustees of the Federal Savings and Loan Insurance Corporation, together with the offices for the members of said boards, the office of Federal Housing Administrator, and the office of Administrator of the United States Housing Authority, are abolished.

Cross References

Additional powers and duties of Secretary of Housing and Urban Development, see section 1701c of Title 12, Banks and Banking.

Section Referred to in Other Sections

This section is referred to in section 1402 of this title.

§ 1404. Same; assistance of officers and agencies; transfer of property.

(a) The Secretary may accept and utilize such voluntary and uncompensated services and with the consent of the agency concerned may utilize such officers, employees, equipment, and information of any agency of the Federal, State, or local governments as he finds helpful in the performance of the duties of the Authority. In connection with the utilization of such services, the Authority may make reasonable payments for necessary traveling and other expenses.

(b) The President may at any time in his discretion transfer to the Authority any right, interest, or title held by any department or agency of the Federal Government in any housing or slum-clearance projects (constructed or in process of construction on the date of enactment of this chapter), any assets, contracts, records, libraries, research materials, and other property held in connection with any such housing or slum-clearance projects or activities, any unexpended balance of funds allocated to such department or agency for the development, administration, or assistance of any housing or slum-clearance projects or activities, and any employees who have been engaged in work connected with housing or slum clearance. The Authority may continue any or all activities undertaken in connection with projects so transferred, subject to the provisions of this chapter. (Sept. 1, 1937, ch. 896, § 4, 50 Stat. 889; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; May 25, 1967, Pub. L. 90–19, § 2 (a), (c), 81 Stat. 19, 20.)

Amendments

1967—Subsec. (a). Pub. L. 90–19, § 2 (a), (c), substituted "Secretary" for "Administrator", redesignated former subsec. (c) as (a) and struck out former subsec. (a) authorization for appointments and compensation of necessary employees subject to civil-service and classification laws and for appointment of necessary officers, attorneys, experts, and employees compensated in excess of $1,980 per annum without regard to the civil-service laws.

Subsec. (b). Pub. L. 90–19, § 2(c), redesignated former subsec. (d) as (b) and struck out former subsec. (b) requiring confirmation by the Senate of appointments to positions the annual salary of which exceeded $7,500 per annum.

Subsecs. (c), (d). Pub. L. 90–19, § 2(c), redesignated former subsecs. (c) and (d) as (a) and (b), respectively.

1949—Act Oct. 28. 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

Transfer of Functions

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency, the name of the Authority was changed to Public Housing Administration, the office of Administrator of the United States Housing Authority was abolished and its functions transferred to the Public Housing Commissioner, by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees.

Ex. Ord. No. 7732, Oct. 27, 1937, 2 F.R. 2324, 44 C.F.R. 201.11, eff. Nov. 1, 1937, transferred to the United States Housing Authority all right, interest, and title held by the Federal Emergency Administration of Public Works in any housing or slum-clearance projects constructed or in the process of construction on Sept 1, 1937.

Cross References

Additional powers and duties of Secretary of Housing and Urban Development, see section 1701c of Title 12, Banks and Banking.

Appointment of officers and employees, see section 1404a of this title.

Library membership, utilization of funds for, see section 1701c(c) of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1413 of this title.

§ 1404a. Same; right to sue; expenses.

The United States Housing Authority may sue and be sued only with respect to its functions under this chapter, and sections 1501 to 1505 of this title. Funds made available for carrying out the functions, powers, and duties of the Authority (including appropriations therefor, which are authorized) shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Authority. Notwithstanding any other provisions of law except provisions of law enacted after August 10, 1948 expressly in limitation hereof, the United States Housing Authority, or any State or local public agency administering a low-rent housing project assisted pursuant to this chapter or sections 1501 to 1505 of the title, shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to this chapter and sections 1501 to 1505 of this title, the United States Housing Authority is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service. (Aug. 10, 1948, ch. 832, title V, § 502(b), 62 Stat. 1284; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; May 25, 1967, Pub. L. 90–19, § 5(d)(4)—(7), 81 Stat. 21.)

CODIFICATION

Section is from subsec. (b) of section 502 of act Aug. 10, 1948. Subsecs. (a) and (c) of section 502 are set out as section 1701c of Title 12, Banks and Banking.

This section was enacted as a part of the Housing Act of 1948 and not as a part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "United States Housing Authority" for "Public Housing Administration" wherever appearing in first and fourth sentences, "Authority" for "Administration" wherever appearing in third sentence, and "may sue" for "shall sue" in the first sentence, and struck out former second sentence authorizing the Public Housing Commissioner to appoint necessary officers and employees subject to the civil-service and classification laws, to delegate his functions and powers, and to make rules and regulations, respectively.

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

CROSS REFERENCES

Additional powers and duties of Secretary of Housing and Urban Development, see section 1701c of Title 12, Banks and Banking.

Library membership, utilization of funds for, see section 1701(c) of Title 12.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1586 of this title.

§ 1405. Same; miscellaneous provisions.

(a) Location of offices.

The principal office of the Authority shall be in the District of Columbia, but it may establish branch offices or agencies in any State, and may exercise any of its powers at any place within the United States. The Authority may, by one or more of its officers or employees or by such agents or agencies as it may designate, conduct hearings or negotiations at any place.

(b) Suits by or against.

The Authority may sue and be sued in its own name, and shall be represented in all litigated matters by the Attorney General or such attorney or attorneys as he may designate.

(c) Mail franchise.

The Authority shall be granted the free use of the mails in the same manner as the executive departments of the Government.

(d) Exemption from taxation.

The Authority, including but not limited to its franchise, capital, reserves, surplus, loans, income, assets, and property of any kind, shall be exempt from all taxation now or hereafter imposed by the United States or by any State, county, municipality, or local taxing authority. Obligations, including interest thereon, issued by public housing agencies in connection with low-rent-housing or slum-clearance projects, and the income derived by such agencies from such projects, shall be exempt from all taxation now or hereafter imposed by the United States. (Sept. 1, 1937, ch. 896, § 5, 50 Stat. 890; May 25, 1967, Pub. L. 90–19, § 2 (d), (e) 81 Stat. 20.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–19, § 2(d), substituted "may sue" for "shall sue".

Subsecs. (c)—(e). Pub. L. 90–19, § 2(e), struck out former subsec. (c) providing for official seal and redesignated former subsecs. (d) and (e) as (c) and (d).

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

CROSS REFERENCES

Suits limited to functions under this chapter and sections 1501—1505 of this title, see section 1404a of this title.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

§ 1406. Same; financial provisions.

(a) Administrative expenditures; sales and loans; audit.

The Authority may make such expenditures, subject to audit under the general law, for the acquisition and maintenance of adequate administrative agencies, offices, vehicles, furnishings, equipment, supplies, books, periodicals, printing and binding, for

attendance at meetings, for any necessary traveling expenses within the United States, its Territories, dependencies, or possessions, and for such other expenses as may from time to time be found necessary for the proper administration of this chapter. Such financial transactions of the Authority as the making of loans, annual contributions, and capital grants, and the acquisition, sale, exchange, lease, or other disposition of real and personal property, and vouchers approved by the Secretary in connection with such financial transactions, shall be final and conclusive upon all officers of the Government; except that all such financial transactions of the Authority shall be audited by the General Accounting Office at such times and in such manner as the Comptroller General of the United States may by regulation prescribe.

(b) Repealed. Oct. 31, 1951, ch. 654, § 1 (112), 65 Stat. 705.

(c) United States made materials.

The use of funds made available for the purposes of this chapter shall be subject to the provisions of section 10a of Title 41, and to make such provisions effective every contract or agreement of any kind pursuant to this chapter shall contain a provision identical to the one prescribed in section 10b of Title 41.

(d) Presidential approval of annual contracts, etc.

No annual contribution, grant, or loan, and no contract for any annual contribution, grant, or loan, under this chapter, shall be undertaken by the Authority except with the approval of the President.

(e) References to this chapter in sections 1501 to 1505 of this title.

With respect to all projects under sections 1501 to 1505 of this title, references therein to the United States Housing Act of 1937, as amended, shall include all amendments to said Act made by the Housing Act of 1949 or by any other law thereafter enacted. (Sept. 1, 1937, ch. 896, § 6, 50 Stat. 890; July 15, 1949, ch. 338, title III, § 307 (c), 63 Stat. 429; Oct. 31, 1951, ch. 654, § 1 (112), 65 Stat. 705; May 25, 1967, Pub. L. 90-19, § 2 (a), 81 Stat. 19.)

REFERENCES IN TEXT

The Housing Act of 1937, as amended, referred to in subsection (e), is classified to this chapter.

The "said Act" referred to in the same subsection refers to the Housing Act of 1937.

The Housing Act of 1949, referred to in subsec. (e), is act July 15, 1949, ch. 338, 63 Stat. 413. Those sections of the United States Housing Act of 1949 which were amended by the Housing Act of 1949 are as follows: sections 1401, 1402, 1406, 1409-1411, 1413-1416 and 1420-1430 of this title.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary" for "Administrator".

1951—Subsec. (b). Act Oct. 31, 1951, repealed subsec. (b), which provided that section 5 of Title 41 should not apply to contracts for services or to purchases of supplies except when the aggregate amount involved was less $300.

1949—Subsec. (e). Act July 15, 1949, added subsec. (e).

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (d) of this section delegated to the Housing and Home Finance Administrator, see section 1(1) of Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

CROSS REFERENCES

Administrative expenses, see section 1404a of this title.

Bids without advertising, limitation, except under certain conditions, now $500, see section 5 of Title 41, Public Contracts.

§ 1406a. Same; expenses of management and operation of transferred projects as nonadministrative; payment.

On and after May 10, 1939 all necessary expenses in connection with the management and operation of projects transferred to the Authority by Executive Order Numbered 7732 of October 27, 1937, as modified by Executive Order Numbered 7839 of March 12, 1938, may be considered as nonadministrative expenses, notwithstanding the provisions of section 712a of Title 15, and be paid from the rents received from each transferred project. (May 10, 1939, ch. 119, § 1, 53 Stat. 690.)

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937, which constitutes this chapter.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

Executive Order No. 7732, Oct. 27, 1937, 2 F. R. 2324, 44 C. F. R. 201.11, effective Nov. 1, 1937, transferred to the United States Housing Authority all right, interest, and title held by the Federal Emergency Administration of Public Works in any housing or slum-clearance projects constructed or in the process of construction on Sept. 1, 1937. See note under section 1403 of this title.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1129.

§ 1406b. Same; expenses of uncompensated advisers serving away from home.

On and after May 10, 1939, the funds made available for administrative expenses of the United States Housing Authority shall be available for the payment, when specifically authorized by the Commis-

sioner, of actual transportation expenses and not to exceed $10 per diem in lieu of subsistence and other expenses to persons serving, while away from their homes, without other compensation from the United States, in an advisory capacity to the Authority. (May 10, 1939, ch. 119, § 1, 53 Stat. 690.)

CODIFICATION

Section was not enacted as a part of the United States Housing Act of 1937, which constitutes this chapter.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

SIMILAR PROVISIONS

Provisions similar to those in section were contained in Act June 25, 1938, ch. 681, title I, 52 Stat. 1128.

§ 1406c. Same; expense of construction advisers on non-Federal projects.

CODIFICATION

Section was from the Independent Offices Appropriation Act, 1943, act June 27, 1942, ch. 450, § 1, 56 Stat. 410, and expired by its own terms on June 30, 1944. Similar provisions were contained in acts Apr. 5, 1941, ch. 40, § 1, 55 Stat. 111; Apr. 18, 1940, ch. 107, § 1, 54 Stat. 130.

§ 1407. Same; information; annual report.

(a) Publication of information.

The Authority may publish and disseminate information pertinent to the various aspects of housing.

(b) Contents of annual report to Congress.

The annual report of the Secretary to the President for submission to the Congress on the operations of the Department of Housing and Urban Development shall include a report on the operations and expenses of the Authority, including loans, contributions, and grants made or contracted for, low-rent housing and slum clearance projects undertaken, and the assets and liabilities of the Authority. Such report shall include operating statements of all projects under the jurisdiction of or receiving the assistance of the Authority, including summaries of the incomes of occupants, sizes of families, rentals, and other related information. (Sept. 1, 1937, ch. 896, § 7, 50 Stat. 891; Aug. 2, 1954, ch. 649, title VIII, § 802 (d), 68 Stat. 643; May 25, 1967, Pub. L. 90–19, § 2(f), 81 Stat. 20.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–19, § 2(f), substituted "Secretary" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

1954—Subsec. (b). Act Aug. 2, 1954, in first sentence, substituted additional provisions with respect to contents of the annual report, for provisions requiring that the report be made, the latter provisions now covered by section 1701o of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

§ 1408. Same; rules and regulations.

The Authority may from time to time make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this chapter. (Sept. 1, 1937, ch. 896, § 8, 50 Stat. 891.)

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

§ 1409. Loans for low-rent-housing and slum-clearance projects.

The Authority may make loans to public-housing agencies to assist the development, acquisition, or administration of low-rent-housing or slum-clearance projects by such agencies. Where capital grants are made pursuant to section 1411 of this title the total amount of such loans outstanding on any one project and in which the Authority participates shall not exceed the development or acquisition cost of such project less all such capital grants, but in no event shall said loans exceed 90 per centum of such cost. Such loans shall bear interest at such rate not less than the applicable going Federal rate, plus one-half of one per centum, shall be secured in such manner, and shall be repaid within such period not exceeding sixty years, as may be deemed advisable by the Authority: *Provided,* That in the case of projects initiated after March 1, 1949, with respect to which annual contributions are contracted for pursuant to this chapter, loans shall not be made for a period exceeding forty years from the date of the bonds evidencing the loan: *And provided further,* That, in the case of such projects or any other projects with respect to which the contracts (including contracts which amend or supersede contracts previously made) provide for loans for a period not exceeding forty years from the date of the bonds evidencing

the loan and for annual contributions for a period not exceeding forty years from the date the first annual contribution for the project is paid, such loans shall bear interest at a rate not less than the applicable going Federal rate. (Sept. 1, 1937, ch. 896, § 9, 50 Stat. 891; July 15, 1949, ch. 338, title III, § 304 (c), (d), 63 Stat. 425; Dec. 24 1969, Pub. L. 91–152, title II, § 211, 83 Stat. 388.)

AMENDMENTS

1969—Pub. L. 91–152 struck out the provision that, in the case of annual contributions in assistance of low rentals as provided in section 1410 of this title, the total of such loans outstanding on any one project and in which the Authority participates was not to exceed 90 per centum of the development or acquisition cost of such project.

1949—Act July 15, 1949, § 304(c), substituted "applicable going Federal rate" for "going Federal rate at the time the loan is made" in the fourth sentence.

Act July 15, 1949, § 304(d), added proviso.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

TEMPORARY RELIEF FROM INTEREST RATE CONFLICT BETWEEN FEDERAL AND STATE LAW

Loans to local public housing agencies from July 24, 1970 until July 1, 1972, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, to bear interest at a rate less than the applicable going Federal rate but not less than 6 per centum per annum, see section 702 of Pub. L. 91–351, set out as a note under section 1452 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1415, 1504 of this title.

§ 1410. Annual contributions in assistance of low rentals.

(a) Authorization.

The Authority may make annual contributions to public housing agencies to assist in achieving and maintaining the low-rent character of their housing projects. The annual contributions for any such project shall be fixed in uniform amounts, and shall be paid in such amounts over a fixed period of years. The Authority shall embody the provisions for such annual contributions in a contract guaranteeing their payment over such fixed period: *Provided,* That the Authority may, in addition to the payments guaranteed under the contract, pay not to exceed $120 per annum per dwelling unit occupied by an elderly family, or a large family, or a family of unusually low income, or a displaced family if such family was displaced by an urban renewal or low-rent housing project on or after January 27, 1964, on the last day of the project fiscal year where such amounts, in the determination of the Authority, was necessary to enable the public housing agency to operate the project on a solvent basis: *Provided further,* That the Authority is authorized to amend or supersede annual contributions contracts to provide payments annually (within the limitations prescribed by this chapter) which the Authority determines are required (1) to assure the low-rent character of the projects involved, and (2) to achieve and maintain adequate operating and maintenance services and reserve funds including payment of outstanding debts. The Authority shall not make any contract for loans (other than preliminary loans) or for annual contributions or for capital grants pursuant to this chapter with respect to any low-rent housing project initiated after March 1, 1949, unless the governing body of the locality involved has entered into an agreement with the public housing agency providing that, subsequent to the initiation of the low-rent housing project and within five years after the completion thereof, there has been or will be elimination, as certified by the local governing body, by demolition, condemnation, effective closing, or compulsory repair or improvement, of unsafe or insanitary dwelling units situated in the locality or metropolitan area substantially equal in number to the number of newly constructed dwelling units provided by such projects: *Provided, however,* That where more than one family is living in an unsafe or insanitary dwelling suit the elimination of such unit shall count as the elimination of units equal to the number of families accommodated therein: *Provided further,* That such elimination may, in the discretion of the Authority be deferred in any locality or metropolitan area where there is an acute shortage of decent, safe, or sanitary housing available to families of low income: *And provided further,* That this requirement shall not apply in the case of any low-rent housing project located in a rural nonfarm area, or to any low-rent housing project developed on the site of a slum cleared subsequent to July 15, 1949, and that the dwelling units which had been eliminated by the clearance of the site of such project shall not be counted as elimination for any other low-rent project.

(b) Limitation on particular contribution and periods.

Annual contributions shall be strictly limited to the amounts and periods necessary, in the determination of the Authority, to assure the low-rent character of the housing projects involved. Toward this end the Authority may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition or administration cost, number of dwelling units, number of persons housed, or other appropriate factors: *Provided,* That the fixed contribution payable annually under any contract, although not limited to debt service requirements, shall in no case exceed a

sum equal to the annual yield, at the applicable going Federal rate plus 1 per centum, upon the development or acquisition cost of the low-rent housing or slum-clearance project involved.

(c) Reduction in annual contributions; duration of contracts.

Every contract for annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-rent housing project exceed its expenditures (including debt service, administration, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Authority, will effect a reduction in the amount of subsequent annual contributions. In no case shall any contract for annual contributions be made for a period exceeding sixty years: *Provided,* That, in the case of projects initiated after March 1, 1949, contracts for annual contributions shall not be made for a period exceeding forty years from the date the first annual contribution for the project is paid: *Provided further,* That, in the case of such projects or any other projects with respect to which the contracts for annual contributions (including contracts which amend or supersede contracts previously made) provide for annual contributions for a period not exceeding forty years from the date the first annual contribution for the project is paid, the fixed contribution may exceed the amount provided in the first proviso of subsection (b) of this section by 1 per centum of development or acquisition cost: *And provided further,* That the amount of the fixed annual contribution which would be established under this chapter for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established, as a maximum annual contribution in lieu of any other guaranteed contribution authorized under this section, for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition, acquisition and rehabilitation, or use under lease of structures which are suitable for low-rent housing use and obtainable in the local market.

(d) Availability of funds.

All payments of annual contributions pursuant to this section shall be made out of any funds available to the Authority when such payments are due, except that its capital and its funds obtained through the issuance of obligations pursuant to section 1420 of this title (including repayments or other realizations of the principal of loans made out of such capital and funds) shall not be available for the payment of such annual contributions.

(e) Limitation on aggregate contractual contributions.

The Authority is authorized to enter into contracts for annual contributions aggregating not more than $554,250,000 per annum, which limit shall be increased by $100,000,000 on August 1, 1968, and by further amounts of $225,000,000 on July 1, 1969, $320,000,000 on July 1, 1970, and $225,000,000 on July 1, 1971, but any such contracts for additional units for any one State shall not, after June 30, 1961, be entered into for more than 15 per centum of the aggregate amount not already guaranteed under contracts for annual contributions on such date: *Provided,* That subject to any contractual obligation outstanding on August 10, 1965, any units under construction within five years from the date they were reserved to a public housing agency may be reserved, allocated, or placed under contract for annual contributions in any State without limitation as to the aggregate amount of units which may be placed under contract for annual contributions in any one State: *Provided further,* That at least 30 per centum of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units of low-rent housing in private accommodations provided under section 1421b of this title: *And provided further,* That the Authority shall enter into only such new contracts for preliminary loans as are consistent with the numbers of dwelling units for which contracts for annual contributions may be entered into. Without further authorization from Congress, no new contracts for annual contributions beyond those herein authorized shall be entered into by the Authority. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there is authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

(f) Payments under contractual contributions to be pledged for loans.

Payments under annual contributions contracts shall be pledged, if the Authority so requires, as security for any loans obtained by a public housing agency to assist the development or acquisition of the housing project to which the annual contributions relate.

(g) Maximum income limits; admission policies; notice of admissibility.

Every contract for annual contributions for any low-rent housing project shall provide that—

(1) the maximum income limits fixed by the public housing agency shall be subject to the prior approval of the Authority and the Authority may require the agency to review and revise such limits if the Authority determines that changed conditions in the locality make such revisions necessary in achieving the purposes of the chapter;

(2) the public housing agency shall adopt and promulgate regulations establishing admission policies which shall give full consideration to its responsibility for the rehousing of displaced families, to the applicant's status as a serviceman or veteran or relationship to a serviceman or veteran or to a disabled serviceman or veteran, and to the applicant's age or disability, housing conditions, urgency of housing need, and source of income: *Provided,* That in establishing such admission policies the public housing agency shall accord to

families of low income such priority over single persons as it determines to be necessary to avoid undue hardship;

(3) the public housing agency shall determine, and so certify to the Authority, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall make periodic reexaminations of the incomes of families living in the project and shall require any family whose income has increased beyond the approved maximum income limits for continued occupancy to move from the project unless the public housing agency determines that, due to special circumstances, the family is unable to find decent, safe and sanitary housing within its financial reach although making every reasonable effort to do so, in which event such family may be permitted to remain for the duration of such a situation if it pays an increased rent consistent with such family's increased income; and

(4) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined.

(h) Exemption of projects from taxes; contributions by States, city, county or other political subdivision.

Every contract made pursuant to this chapter for annual contributions for any low-rent housing project initiated after March 1, 1949, shall provide that no annual contributions by the Authority shall be made available for such project unless such project (exclusive of any part thereof covered by a contract or conveyed pursuant to paragraph (9) of section 1415 of this title, and exclusive of any portion thereof which is not assisted by annual contributions under this chapter) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions, but such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the annual shelter rents charged in such project or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 1415 (7) (b) (i) of this title, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement: *Provided,* That, with respect to any such project which is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no annual contributions by the Authority shall be made available for such project unless and until the State, city, county, or other political subdivisions in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the annual shelter rents charged in such project: *Provided further,* That, prior to execution of the contract for annual contributions the public housing agency shall, in the case of a tax-exempt project, notify the governing body of the locality of its estimate of the annual amount of such payments in lieu of taxes and of the amount of taxes which would be levied if the property were privately owned, or, in the case where the project is taxed, its estimate of the annual amount of the local cash contribution, and shall thereafter include the actual amounts of such payments or contributions in its annual report. Contracts for annual contributions entered into prior to September 2, 1964 may be amended in accordance with the first sentence of this subsection.

(i) Payment for services and facilities to municipalities or other local governmental agencies.

Notwithstanding any other provision of law or any contract or other arrangement made pursuant thereto, any public housing agency which utilizes public services and facilities of a municipality or other local governmental agency making charges therefor separate from real and personal property taxes shall be authorized by the Authority (without any amendment to the contract for annual contributions or deductions from payments in lieu of taxes otherwise payable) to pay to such municipality or other local government agency the amount that would be charged private persons or dwellings similarly situated for such facilities and services.

(j) Repealed. Pub. L. 87-70, title II, § 206(c), June 30, 1961, 75 Stat. 164.

(k) Audit and settlement of expenditures for payment of contributions.

All expenditures of appropriations for the payment of annual contributions shall be subject to audit and final settlement by the Comptroller General of the United States under the provisions of the Budget and Accounting Act of 1921, as amended.

(*l*) Sale of projects to private ownership; procedure; proceeds.

In any community where it has been determined by resolution or ordinance, or by referendum, that a project shall be liquidated by sale thereof to private ownership, such community may negotiate with the Federal Government with respect to the sale of the project, and the Authority shall agree that sale of the project may be made, subject to any outstanding contracts made pursuant to paragraph (9) of section 1415 of this title, after public advertisement to the highest bidder upon (1) payment and retirement of all outstanding obligations (together with any interest payable thereon and any premiums prescribed for the redemption of any bonds, notes, or other obligations prior to maturity) in connection with the project, and (2) payment of any proceeds received from the sale of the project in excess of the amounts required to comply with the requirements of the preceding clause numbered (1)

to the Authority and to local public bodies in proportion to the aggregate contribution which the Authority and such local public bodies have made to the project. (Sept. 1, 1937, ch. 896, § 10, 50 Stat. 891; June 21, 1938, ch. 554, title VI, § 601, 52 Stat. 820; July 15, 1949, ch. 338, title III, §§ 302(a) (304) (a), (c), (e), (f), 305, 307(d), 63 Stat. 423–427, 429; Aug. 2, 1954, ch. 649, title IV, §§ 401 (1), (2), 402, 403, 405, 406, 68 Stat. 630; June 30, 1955, ch. 251, § 3, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 108(b), 69 Stat. 638; Aug. 7, 1956, ch. 1029, title IV, §§ 401(a), 404(b), 70 Stat. 1103, 1104; Sept. 23, 1959, Pub. L. 86–372, title V, §§ 505(a), 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87–70, title II, §§ 203, 204 (a), (b), 205, 206 (b), (c), 75 Stat. 163–165; Sept. 2, 1964, Pub. L. 88–560, title IV, §§ 401(b), 402–404, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89–117, title V, §§ 501–504, 507 (b)(1), (2), 79 Stat. 486–488; May 25, 1967, Pub. L. 90–19, § 2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90–448, title II, §§ 203(a), 206(b), 209(b), 82 Stat. 503, 505; Dec. 24, 1969, Pub. L. 91–152, title II, §§ 212, 214, 217(b), 83 Stat. 388–390; Dec. 31, 1970, Pub. L. 91–609, title II, §§ 202, 203, 204(a)(2), 210, 84 Stat. 1776–1778.)

REFERENCES IN TEXT

Section 202 of the Housing and Urban Development Act of 1970, referred to in subsec. (e), amended such subsec. (e), as provided in 1970 Amendment note to increase public housing contribution from $170,000,000 to $320,000,000 on July 1, 1970, and to provide contribution of $225,000,000 on July 1, 1971.

The Budget and Accounting Act of 1921, as amended, referred to in subsec. (k), is classified to chapter 1 of Title 31, Money and Finance, and to sections 71, 471, 581, and 581a of that title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609 § 210, authorized amendment of contracts to assure low-rent character of projects and to achieve and maintain adequate operating and maintenance services and reserve funds including payment of outstanding debts.

Subsec. (c). Pub. L. 91–609. § 204(a)(2), substituted in last proviso "structures" for "existing structures".

Subsec. (e). Pub. L. 91–609, §§ 202, 203, increased from $170,000,000 to $320,000,000 on July 1, 1970, the amount authorized to increase the amount authorized per annum and authorized increase by $225,000,000 on July 1, 1971, and provided for use of public housing contract authority for low-rent housing in private accommodations, respectively.

1969—Subsec. (b). Pub. L. 91–152, § 212(a), added ", although not limited to debt service requirements," following "under any contract".

Subsec. (e). Pub L. 91–152, §§ 212(b), 217(b), increased from $150,000,000 to $225,000,000 on July 1, 1969 and from $150,000,000 to $170,000,000 on July 1, 1970 the amounts authorized to increase the amount authorized for aggregate contributions per annum, and struck out the provision that no new contract for additional units be entered into after June 30, 1961 except with respect to low-rent housing for a locality certified to have a workable program under section 1451(c) of this title.

Subsec. (g). Pub. L. 91–152, § 214, added par. (4).

1968—Subsec. (a). Pub. L. 90–448, §§ 206(b), 209(b), amended first proviso to authorize the Authority to pay not more than $120 per annum per dwelling unit occupied by a large family or a family of unusually low income, and to eliminate provisions which related to leasing of dwelling units to elderly or displaced families, and, in the last proviso, substituted "rural nonfarm or Indian area" for "rural nonfarm area."

Subsec. (e). Pub. L. 90–448, § 203(a), provided for an increase of $100,000,000 in the aggregate amount of permissible annual contributions on August 1, 1968, and for further increases of $150,000,000 on July 1, 1969 and July 1, 1970.

1967—Subsec. (e). Pub. L. 90–19 substituted "Secretary" for "Administrator".

1965—Subsec. (a). Pub. L. 89–117, § 501, permitted acceptance by the public housing agency of certification by local governing bodies that they have complied with the equivalent slum housing elimination requirements.

Subsec. (c). Pub. L. 89–117, § 502, added proviso allowing the establishment, as a maximum annual contribution in lieu of any other guaranteed contribution, of the amount of the fixed annual contribution which would be established for a newly constructed project but that would provide housing for comparable persons through acquisition and rehabilitation of existing structures.

Subsec. (e). Pub. 89–117, §§ 503, 504, provided for increases of $47,000,000 in the aggregate amount of permissible annual contributions on August 10, 1965, and on July 1 in 1966, 1967, and 1968, respectively, and added proviso permitting reallocation of units not under construction within 5 years from the date reserved, without regard to the 15 percent state limit.

Subsec. (h). Pub. L. 89–117, § 507(b)(1), inserted "any part thereof covered by a contract or conveyed pursuant to paragraph (9) of section 1415 of this title, and exclusive of" following "exclusive of" in the parenthetical material.

Subsec. (*l*). Pub. L. 89–117, § 507(b)(2), inserted ", subject to any outstanding contracts made pursuant to paragraph (9) of section 1415 of this title," following "may be made".

1964—Subsec. (a). Pub. L. 88–560, § 402, included displaced families within the proviso permitting the Authority to pay up to $120 per annum per dwelling unit in addition to the payments guaranteed by contract.

Subsec. (e). Pub. L. 88–560, § 403, substituted "$366,250,000" for "$336,000,000."

Subsec. (g)(2). Pub. L. 88–560, § 401(b), substituted "displaced families" for "those displaced by urban renewal or other governmental action" and provided that the public housing agency shall accord low income families priority over single persons in admission policies as necessary to avoid undue hardship.

Subsec. (h). Pub. L. 88–560, § 404, substituted "September 2, 1964" for "August 2, 1954", and deleted provisions which prohibited payments in lieu of taxes if such payments reduced the value of the tax exemption to an amount less than 20 per centum of the Federal contribution.

1961—Subsec. (a). Pub. L. 87–70, § 203, empowered the Authority, in addition to the payments guaranteed under the contract, to pay not more than $120 per annum per dwelling unit occupied by an elderly family on the last day of the project fiscal year where such amount was necessary to enable the public housing agency to lease the dwelling unit to the elderly family at a rental it could afford and to operate the project on a solvent basis.

Subsec. (e). Pub. L. 87–70, § 204(a), authorized the Authority to enter into contracts for annual contributions aggregating not more than $336,000,000 per annum, limited contracts for additional units for any one State, after June 30, 1961, to not more than 15 per centum of the aggregate amount not already guaranteed under contracts for annual contributions on such date, prohibited new contracts for additional units after June 30, 1961, except with respect to low-rent housing for a locality respecting which the determination and certification relating to a workable program has been made, permitted the Authority to enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into, and eliminated provisions which limited the dwelling units to not more than 810,000.

Subsec. (g). Pub. L. 87–70, § 205(a), substituted provisions requiring all contracts to provide that the maximum income limits fixed by the public housing agency shall be subject to the prior approval of the Authority, that the agency shall adopt and promulgate regulations establishing admission policies giving full consideration to displaced persons, servicemen and veterans, relatives of servicemen and veterans, and to the applicant's age or disability, housing conditions, urgency of the housing needed, and source of income, and that the agency shall determine, and so certify, that each family was admitted in accordance with duly adopted regulations and approved

income limits, and that the agency shall make periodic reexaminations of the income limitations and will require any family whose income has increased beyond the maximum income limits to move unless there is a determination that, due to special circumstances, the family is unable to find decent, safe and sanitary housing within its financial reach although making every reasonable effort to do so, in which event the family may be permitted to stay for the duration of the situation at an increased rental, for provisions which required all contracts to contain provisions giving preferences to displaced families, disabled veterans, veterans and servicemen, and to their families.

Subsec. (h). Pub. L. 87–70, § 206(b), inserted the parenthetical phrase "(exclusive of any portion thereof which is not assisted by annual contributions under this chapter)."

Subsec. (i). Pub. L. 87–70, § 204(b), redesignated par. (10) of section 15 of act Sept. 1, 1937, as added by section 507 of Pub. L. 86–372, as subsec. (i) of this section, and repealed former subsec. (i) which related to new contracts for loans and annual contributions for additional dwelling units.

Subsec. (j). Pub. L. 87–70, § 206(c), repealed former subsec. (j), which related to self-liquidation of projects.

Subsec. (m). Pub. L. 87–70, § 205(b), repealed former subsec. (m) which permitted the Authority to assist the construction of new housing or the remodeling of existing housing in order to provide accommodations designed specifically for elderly families and empowered the public housing agencies to extend a prior preference to such families.

1959—Subsec. (i). Pub. L. 86–372 substituted provisions authorizing the Authority to enter into new contracts for loans and annual contributions for (1) not more than such number of dwelling units as does not exceed the number of units which were covered by annual contribution contracts on Sept. 23, 1959, and are not built, the contracts therefor being cancelled, and (2) additional dwelling units, which, together with the dwelling units covered by new contracts entered into under cl. (1) do not exceed 37,000 units, for provisions which permitted the Authority to enter into new contracts for loans and annual contributions after July 31, 1956, for not more than 35,000 additional dwelling units, which amount increased by 35,000 additional dwelling units on July 1, 1957, and eliminated provisions which required the authority to enter into new contracts for annual contributions with respect to each 35,000 additional units to terminate two years after the first date on which such authority may be exercised.

1956—Subsec. (i). Act Aug. 7, 1956, authorized new contracts for 35,000 dwelling units after July 31, 1956, in lieu of former provisions authorizing 45,000 from Aug. 11, 1955, through July 31, 1956, amended proviso to terminate contract authority after two years, inserted further proviso that balance of authorization not used by 1956 shall be available in any succeeding year, and inserted further proviso that no new contracts for contributions for units shall be entered into except for low-rent housing for a locality respecting which the Administrator has made the determination and certification relating to a workable program as prescribed in section 1451 (c) of this title.

Subsec. (m). Act Aug. 7, 1956, added subsec. (m).

1955—Subsec. (i). Act Aug. 11, 1955, authorized new contracts for loans and annual contributions for not more than 45,000 additional dwelling units, eliminated the requirement that a slum clearance and urban redevelopment or urban renewal project is being carried out in the community, and eliminated the provisions relating to certification.

Act June 30, 1955, substituted "period from June 30, 1954, to August 1, 1955" for "fiscal year 1955".

1954—Subsec. (g). Act Aug. 2, 1954, § 401(2), extended the preference provision to families which are to be displaced through other public actions, which provision, prior to such amendment, extended a first preference only to families which are to be displaced by a low-rent project or by a public slum clearance or redevelopment project.

Subsec. (h). Act Aug. 2, 1954, § 402, made mandatory on a local housing authority any payments in lieu of taxes stipulated in its cooperation agreement with the local governing body, and revised the provisions with respect to such agreements.

Subsecs. (i)—(*l*). Act Aug. 2, 1954, §§ 401(1), 403, 405, 406, respectively, added subsecs. (i)—(*l*).

1949—Subsec. (a). Act July 15, 1949, §§ 305(b), 307 (d), deleted the third sentence beginning "No part of such * * *", deleted proviso in fourth sentence, and added last sentence.

Subsec. (b). Act July 15, 1949, § 304 (a), (c), repealed the last proviso, and substituted "applicable going Federal rate" for "going Federal rate of interest at the time such contract is made" in the first proviso.

Subsec. (c). Act July 15, 1949, § 304 (e), (f), added proviso to last sentence, and amended first sentence to provide for reduction in amount of annual contributions whenever receipts justify it.

Subsec. (e). Act July 15, 1949, § 305(a), inserted the second and third sentences.

Subsec. (f). Act July 15, 1949, § 304(a), omitted proviso of first sentence and entire second sentence.

Subsec. (g). Act. July 15, 1949, § 302(a), added subsec. (g).

Subsec. (h). Act July 15, 1949, § 305(b), added subsec. (h).

1938—Subsec. (e). Act June 21, 1938, substituted an authorization for aggregate annual contribution contracts of $28,000,000 per annum for the prior authorization of $5,000,000 per annum on and after Sept. 1, 1937, $7,500,000 on or after July 1, 1938, and $7,500,000, on or after July 1, 1939.

Subsec. (f). Act June 21, 1938, added subsec. (b).

EFFECTIVE DATE OF 1956 AMENDMENT

Section 401 (a) of act Aug. 7, 1956, provided in part that the amendment to subsec. (i) should be effective Aug. 1, 1956.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan.

The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

The word "Authority" was used in the amendment of this section by acts subsequent to July 27, 1947, without reference to 1947 Reorg. Plan No. 3, which substituted "Administration" for "Authority."

DELEGATION OF FUNCTIONS

For delegation of functions vested in the President to the Housing and Home Finance Administrator, see Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1409, 1410, 1412, 1415, 1421b, 1457, 1504, 1586 of this title.

§ 1411. Capital grants in assistance of low rentals.

(a) Authorization.

As an alternative method of assistance to that provided in section 1410 of this title, when any public housing agency so requests and demonstrates to the satisfaction of the Authority that such alternative method is better suited to the purpose of achieving and maintaining low rentals and to the other purposes of this chapter, capital grants may be made to such agency for such purposes. The capital grants

thus made for any low-rent-housing or slum-clearance project shall be paid in connection with its development or acquisition, and shall be strictly limited to the amounts necessary, in the determination of the Authority, to assure its low-rent character.

(b) Limitation on amount of particular grant.

Pursuant to subsection (a) of this section, the Authority may make a capital grant for any low-rent-housing or slum-clearance project, which shall in no case exceed 25 per centum of its development or acquisition cost.

(c) Availability of funds.

All payments of capital grants by the Authority pursuant to subsection (b) of this section shall be made out of any funds available to the Authority, except that its capital and its funds obtained through the issuance of obligations pursuant to section 1420 of this title (including repayments or other realizations of the principal of loans made out of such capital and funds) shall not be available for the payment of such capital grants.

(d) Limitation on aggregate grants.

The Authority is authorized, on or after September 1, 1937 to make capital grants (pursuant to subsection (b) of this section) aggregating not more than $10,000,000, on or after July 1, 1938, to make additional capital grants aggregating not more than $10,000,000, and on or after July 1, 1939, to make additional capital grants aggregating not more than $10,000,000. Without further authorization from Congress, no capital grants beyond those herein authorized shall be made by the Authority.

(e) Additional grants for labor costs.

To supplement any capital grant made by the Authority in connection with the development of any low-rent-housing or slum-clearance project, the President may allocate to the Authority, from any funds available for the relief of unemployment, an additional capital grant to be expended for payment of labor used in such development: *Provided,* That such additional capital grant shall not exceed 15 per centum of the development cost of the low-rent-housing or slum-clearance project involved.

(f) Contribution by State as condition.

No capital grant pursuant to this section shall be made for any low-rent-housing or slum-clearance project unless the public housing agency receiving such capital grant shall also receive, from the State political subdivision thereof, or otherwise, a contribution for such project (in the form of cash, land, or the value, capitalized at the going Federal rate of interest, of community facilities or services for which a charge is usually made, or tax remissions or tax exemptions) in an amount not less than 20 per centum of its development or acquisition cost. (Sept. 1, 1937, ch. 896, § 11, 50 Stat. 893; July 15, 1949, ch. 388, title III, § 307(d), 63 Stat. 430.)

AMENDMENTS

1949—Subsec. (a). Act July 15, 1949, omitted proviso prohibiting, with certain exceptions, capital grants for projects involving new dwellings unless such projects included the elimination or repair or improvement of unsafe or insanitary dwellings substantially equal in number to the number of new units.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan.

The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409, 1412, 1504 of this title.

§ 1411a. Prohibition of projects in localities where rejected by governing body or public vote; repayment to Federal Government; financial assistance contracts; losses; payments; examination of expenditures.

CODIFICATION

Section, act July 31, 1953, ch. 302, title I, § 101, 67 Stat. 306, was from the Independent Offices Appropriation Act, 1954, and was not repeated in subsequent appropriation acts. Similar provisions were contained in acts July 5, 1952, ch. 578, title I, § 101, 66 Stat. 403; Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 277.

§ 1411b. Repealed. Aug. 7, 1956, ch. 1029, title IV, § 401 (b), 70 Stat. 1103.

Section, acts July 5, 1952, ch. 578, title I, § 101, 66 Stat. 403; July 31, 1953 ch. 302 title I, § 101, 67 Stat. 307, limited number of housing units to be constructed during fiscal year.

§ 1411c. Subversives barred from occupancy of housing units; enforcement; prohibition as affecting Public Housing Administration.

CODIFICATION

Section, act July 31, 1953, ch. 302, title I, § 101, 67 Stat. 307, was from Independent Offices Appropriation Act, 1954, and was not repeated in subsequent appropriation acts. Similar provisions were contained in acts July 5, 1952, ch. 578, title I, § 101, 66 Stat. 403; Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 277.

§ 1411d. Submission of specifications by applicants.

Every contract for a loan, grant, or contribution under this chapter, for the construction of a project shall require the submission of specifications with respect to such construction prior to the authorization for the award of the construction contract and the submission of data with respect to the acquisition of land prior to the authorization to acquire such land. (Aug. 2, 1954, ch. 649, title VIII, § 815, 68 Stat. 647.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the United States Housing Act of 1937, which comprises this chapter. In so far as section 815 of the Housing Act of 1954 (act Aug. 2, 1954) related to title I of the Housing Act of 1949, it is set out as section 1455a of this title.

§ 1412. Disposal of Federal projects.

(a) Purpose.

It is declared to be the purpose of Congress to provide for the orderly disposal of any low-rent-housing projects hereafter transferred to or acquired by the

Authority through the sale or leasing of such projects as hereinafter provided; and in order to continue the relief of Nation-wide unemployment and in order to avoid waste pending such sale or lease, to provide for the completion and temporary administration of such projects by the Authority.

(b) Authorization.

As soon as practicable the Authority shall sell its Federal projects or divest itself of their management through leases.

(c) Sale.

The Authority may sell a Federal project only to a public housing agency or to a nonprofit body for use as low-rent housing. Any such sale shall be for a consideration, in whatever form may be satisfactory to the Authority, equal at least to the amount which the Authority determines to be the fair value of the project for housing purposes of a low-rent character (making such adjustment as the Authority deems advisable for any annual contributions which may hereafter be given hereunder in aid of the project), less such allowance for depreciation as the Authority shall fix. Such project shall then become eligible for loans pursuant to section 1409 of this title, and either annual contributions pursuant to section 1410 of this title or a capital grant pursuant to section 1411 of this title. Any obligation of the purchaser accepted by the Authority as part of the consideration for the sale of such project shall be deemed a loan pursuant to section 1409 of this title.

(d) Lease.

The Authority may lease any Federal low-rent-housing project, in whole or in part, to a public housing agency. The lessee of any project, pursuant to this subsection, shall assume and pay all management, operation, and maintenance costs, together with payments, if any, in lieu of taxes, and shall pay to the Authority such annual sums as the Authority shall determine are consistent with maintaining the low-rent character of such project. The provisions of section 303b of Title 40, shall not apply to any lease pursuant to this chapter.

(e) Rentals pending sale or lease.

In the administration of any Federal low-rent-housing project pending sale or lease, the Authority shall fix the rentals at the amounts necessary to pay all management, operation, and maintenance costs, together with payments, if any, in lieu of taxes, plus such additional amounts as the Authority shall determine are consistent with maintaining the low-rent character of such project.

(f) Transfer of labor supply centers, camps, homes, and other facilities; operation; disposal; rentals pending sale or lease; transfer without monetary consideration; finding and certification; preferences; Florida camps; mineral rights reserved; undisposed property.

There is transferred to the Authority, effective not later than sixty days after April 20, 1950, all right, title, and interest, including contractual rights and reversionary interests, held by the Federal Government in and with respect to all labor supply centers, labor homes, labor camps, and facilities held in connection therewith and heretofore administered by the Secretary of Agriculture, for use as low-rent housing projects for families and persons of low income. Such projects when so transferred shall (notwithstanding any other provision of law) be low-rent housing projects subject to the provisions of this chapter, except as otherwise provided in this subsection. Such projects shall be operated for the principal purpose of housing persons engaged in agricultural work, and preference for occupancy in such projects shall be given to agricultural workers and their families; the rents in such projects shall not be higher than the rents which such tenants can afford; and the provisions of the second, third, and fourth sentences of section 1402(1) of this title shall not be applicable to such projects. The Authority is authorized to enter into contracts for disposal of said projects by any of the methods provided in this chapter, including disposal of any such project to a public housing agency for a consideration consisting of the payment by the public housing agency to the Authority during a term not less than twenty years of all income therefrom after deduction of the amounts necessary for (i) reasonable and proper costs of management, operation, maintenance, and improvement of such project; (ii) payments in lieu of taxes not in excess of 10 per centum of shelter rents; (iii) establishment and maintenance of reasonable and proper reserves; and (iv) the payment of currently maturing installments of principal and interest on any indebtedness incurred in connection with such project by the public housing agency with the approval of the Authority. Pending sale or lease of said projects to public housing agencies, the Authority may continue present leases and permits, or may enter into new leases with public bodies or nonprofit organizations for the operation of such projects. Pending sale of such projects the Authority may make any necessary improvements thereto and may pay any deficits incurred in their improvement and administration out of any of the funds available to it under this chapter. Appropriations to reimburse the Authority for any amounts expended pursuant to this subsection, in excess of the funds transferred with such projects, are authorized. Notwithstanding any other provision of law, upon the filing of a request therefor within eighteen months after August 7, 1956, the Authority shall relinquish, transfer, and convey, without monetary consideration, all of its rights, title, and interest in and with respect to any such project or any part thereof (including such land as is determined by the Authority to be reasonably necessary to the operation of such project, and including contractual rights to revenues, reserves, and other proceeds therefrom), (1) in the case of any State other than Florida, to any public housing agency whose area of operation includes the project, upon a finding and certification by the public housing agency (which shall be conclusive upon the Authority) that the project is needed to house persons and families of low income and that preference for occupancy in the project will be given first to low-income agricultural workers and their families and second to other low-income persons and their families; and (2) in the case of Florida, to any public housing agency in the State whenever, under the laws of the State, such agency (A) is authorized to

acquire and operate such project, (B) is required to give preference for occupancy in such project, first, to low-income agricultural workers and their families, and second, to other low-income persons and their families, (C) is required, in the event of the disposition of such project for sale or otherwise, to use the proceeds thereof and any available accumulated earnings to construct facilities (which shall be subject to the same preference as those specified as those specified in clause (B)) for occupancy by low-income agricultural workers and their families in the same area, and (D) is required, so long as it continues to own or operate such project, to have on its managing board one or more members whose principal occupation is farming. Upon the relinquishment and transfer of any such project it shall cease to be a low-rent project within the meaning of this chapter, and the Authority shall have no further jurisdiction over it, except that in any conveyance under the preceding sentence the Authority may reserve to the United States any mineral rights of whatsoever nature upon, in, or under the property, including such rights of access to and the use of such parts of the surface of the property as may be necessary for mining and saving the minerals. Any project, or part thereof not relinquished and conveyed pursuant to this subsection or under a contract for disposal pursuant to this subsection within eighteen months after August 7, 1956 shall be disposed of by the Authority pursuant to subsection (e) of section 1413 of this title, notwithstanding the parenthetical clause in such subsection. (Sept. 1, 1937, ch. 896, § 12, 50 Stat. 894; Apr. 20, 1950, ch. 94, title II, § 205(b), 64 Stat. 73; Aug. 7, 1956, ch. 1029, title IV, § 405, 70 Stat. 1104; Aug. 10, 1965, Pub. L. 89–117, title V, § 505, 79 Stat. 487.)

AMENDMENTS

1965—Subsec. (c). Pub. L. 89–117 inserted "or to a nonprofit body for use as low-rent housing" following "public housing agency" in the first sentence.

1956—Subsec. (f). Act Aug. 7, 1956, added provisions directing Administrator, upon the filing of a request within 18 months, to transfer farm-labor camps without monetary consideration to any public housing agency whose area of operation includes such project; provisions that the local agency submit finding and certification as to the low-rent need for the project and the preferences to be given in occupancy, and that such preference will be given first to low-income agricultural workers and second to other low-income persons; provisions relating to Florida camps; provisions reserving mineral rights to United States; and disposal of projects under section 1413 (e) of this title if not disposed of within 18 months pursuant to subsec. (f).

1950—Subsec. (f). Act Apr. 20, 1950, added subsec. (f).

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

The word "Authority" was used in subsec. (f), which was added by act Apr. 20, 1950 without regard to 1947 Reorg. Plan No. 3 which substituted "Administration" for "Authority".

TRANSFERRED FUNDS; AVAILABILITY FOR EXPENDITURE

Section 205 (c) of act Apr. 20, 1950, provided that: "All unexpended receipts (notwithstanding any limitations in the second proviso of title I of Public Law 76, Eightieth Congress [act May 26, 1947, ch. 82, title 1, 61 Stat. 109], under the heading of 'Farm Labor Supply program') derived from the sales of labor supply centers, labor homes, labor camps, and facilities, and all other unexpended balances of funds available for the maintenance, operation, and liquidation of the properties transferred hereunder and for administrative expenses in connection therewith shall be transferred, upon the transfer of such properties, to the Public Housing Administration to be available, until expended, in accordance with the provisions of the United States Housing Act of 1937, as amended [this chapter]."

§ 1413. Powers of Authority; miscellaneous.

(a) Foreclosure and other rights.

The Authority may foreclose on any property or commence any action to protect or enforce any right conferred upon it by any law, contract, or other agreement. The Authority may bid for and purchase at any foreclosure by any party or at any other sale, or (pursuant to section 1421a of this title or otherwise) acquire or take possession of any project which it previously owned or in connection with which it has made a loan, annual contribution, or capital grant; and in such event the Authority may complete, administer, pay the principal of and interest on any obligations issued in connection with such project, dispose of, and otherwise deal with, such projects or parts thereof, subject, however, to the limitations elsewhere in this chapter governing their administration and disposition.

(b) Civil and criminal jurisdiction of States.

The acquisition by the Authority of any real property pursuant to this chapter shall not deprive any State or political subdivision thereof of its civil and criminal jurisdiction in and over such property, or impair the civil rights under the State or local law of the inhabitants on such property; and, insofar as any such jurisdiction may have been taken away or any such rights impaired by reason of the acquisition of any property transferred to the Authority pursuant to section 1404(b) of this title, such jurisdiction and such rights are fully restored.

(c) Payments in lieu of taxes.

The Authority may enter into agreements to pay annual sums in lieu of taxes to any State or political subdivision thereof with respect to any real property owned by the Authority. The amount so paid for any year upon any such property shall not exceed the taxes that would be paid to the State or subdivision, as the case may be, upon such property if it were not exempt from taxation thereby.

(d) Insurance.

The Authority may procure insurance against any loss in connection with its property and other assets (including mortgages), in such amounts, and from such insurers, as it deems desirable.

(e) Sale or lease of non-project property.

The Authority may sell or exchange at public or private sale, or lease, any real property (except low-rent-housing projects, the disposition of which is governed elsewhere in this chapter) or personal property, and sell or exchange any securities or obligations, upon such terms as it may fix. The Authority may borrow on the security of any real or personal property owned by it, or on the security of the revenues to be derived therefrom, and may use the proceeds of such loans for the puroses of this chapter. (Sept. 1, 1937, ch. 896, § 13, 50 Stat. 894; July 15, 1949, ch. 338, title III, § 307(e), 63 Stat. 430; May 25, 1967, Pub. L. 90–19, § 2(g), 81 Stat. 20.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–19 substituted "1404(b)" for "1404(d)".

1949—Subsec. (a). Act July 15, 1949, allowed the Administration to complete, administer, pay the principal and interest on any obligation issued in connection with the project and dispose of, or otherwise deal with such projects.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

The word "Authority" was used in the amendment of this section by act July 15, 1949, without reference to 1947 Reorg. Plan No. 3, which substituted "Administration" for "Authority."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1412 of this title.

§ 1413a. Recovery of possession of housing accommodations.

CODIFICATION

Section, acts July 31, 1947, ch. 418, § 2, 61 Stat. 705; Feb. 27, 1948, ch. 77, § 3, 62 Stat. 37; Mar. 30, 1948, ch. 161, title III, § 304, 62 Stat. 100, which postponed until April 1, 1949, the institution of any eviction actions or proceedings in connection with publicly operated housing accommodations, has been executed.

§ 1414. Modification, amendment, or supersedure of contracts.

Subject to the specific limitations or standards in this chapter governing the terms of sales, rentals, leases, loans, contracts for annual contributions, contracts for capital grants, or other agreements, the Authority may, whenever it deems it necessary or desirable in the fulfillment of the purposes of this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Authority is a party or which has been transferred to it pursuant to this chapter. When the Authority finds that it would promote economy or be in the financial interest of the Federal Government, or is necessary to insure the low-rent character of the project involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may, with Presidential approval, be amended or superseded by a contract of the Authority so that the going Federal rate on the basis of which such annual contributions or interest rate on the loans, or both, respectively, are fixed shall mean the going Federal rate, as herein defined, on the date of Presidential approval of such amending or superseding contract: *Provided,* That contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable. (Sept. 1, 1937, ch. 896, § 14, 50 Stat. 895; July 15, 1949, ch. 338, title III, § 304(g), 63 Stat. 426; Dec. 24, 1969, Pub. L. 91–152, title II, § 213(c), 83 Stat. 389.)

AMENDMENTS

1969—Pub. L. 91–152 added "or is necessary to insure the low-rent character of the project involved," following "the Federal Government,".

1949—Act July 15, 1949, inserted the second sentence.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

The word "Authority" was used in the amendment of this section by act July 15, 1949, without reference to 1947 Reorg. Plan No. 3, which substituted "Administration" for "Authority."

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Housing and Home Finance Administrator, see section 1(2) of Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

§ 1415. Preservation of low rents.

In order to insure that the low-rent character of housing projects will be preserved, and that the other purposes of this chapter will be achieved, it is provided that—

(1) Low-rent-housing projects.

When a loan is made pursuant to section 1409 of this title for a low-rent-housing project the Authority may retain the right, in the event of a substantial breach of the condition (which shall be embodied in the loan agreement) providing for the maintenance of the low-rent character of the housing project involved or in the event of the acquisition (except pursuant to paragraph (9) of this section) of such project by a third party in any manner including a bona-fide foreclosure under a mortgage or

other lien held by a third party, to increase the interest payable thereafter on the balance of said loan then held by the Authority to a rate not in excess of the going Federal rate (at the time of such breach or acquisition) plus 2 per centum per annum or to declare the unpaid principal on said loan due forthwith.

(2) Slum-clearance projects.

When a loan is made pursuant to section 1409 of this title for a slum-clearance project the Authority shall retain the right, in the event of the leasing or acquisition (except pursuant to paragraph (9) of this section) of such project by a third party in any manner including a bona-fide foreclosure under a mortgage or other lien held by a third party, to increase the interest payable thereafter on the balance of said loan then held by the Authority to a rate not in excess of the going Federal rate (at the time of such leasing or acquisition) plus 2 percentum per annum or to declare the unpaid principal on said loan due forthwith.

(3) Annual contributions.

When a contract for annual contributions is made pursuant to section 1410 of this title, the Authority shall retain the right, in the event of a substantial breach of the condition (which shall be embodied in such contract) providing for the maintenance of the low-rent character of the housing project involved, to reduce or terminate the annual contributions payable under such contract. In the event of the acquisition (except pursuant to paragraph (9) of this section) of such project by a third party in any manner including a bona-fide foreclosure under a mortgage or other lien held by a third party, such annual contributions shall terminate.

(4) Contractual aids.

The Authority may also insert in any contract for loans, annual contributions, capital grants, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such other covenants, conditions, or provisions at [1] it may deem necessary in order to insure the low-rent character of the housing project involved: *Provided,* That any such contract for a substantial loan may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Authority for the safety or health of children.

(5) Limitation on construction and equipment costs; prototype cost for area: percentage limitation, annual determination, considerations, publication in Federal Register; modular measure principal.

Every contract made pursuant to this chapter for loans (other than preliminary loans), annual contributions, or capital grants for any low-rent housing project completed after January 1, 1948, shall provide that the cost for construction and equipment of such project (excluding land, demolition, and nondwelling facilities) on which the computation of any annual contributions under this chapter may be based shall not exceed by more than 10 per centum the appropriate prototype cost for the area. Prototype costs shall be determined at least annually by the Secretary on the basis of his estimate of the construction and equipment costs of new dwelling units of various sizes and types in the area suitable for occupancy by persons assisted under this chapter. The Secretary in determining the area's prototype costs shall take into account the extra durability required for economical maintenance of assisted housing, and the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, in developing such prototypes, emphasis should be given to encouraging good design as an essential component of such housing and to producing housing which will be of such quality as to reflect the architectural standards of the neighborhood and community. The prototype costs for any area shall become effective upon the date of publication in the Federal Register. Every contract made pursuant to this chapter for loans (other than preliminary loans), annual contributions, or capital grants with respect to any low-rent housing project initiated after March 1, 1949, shall provide that such project shall be undertaken in such a manner that it will not be of elaborate or extravagant design or materials, and economy will be promoted both in construction and administration. In order to attain the foregoing objective, every such contract shall provide that no award of the main construction contract for such project shall be made unless the Authority, taking into account the level of construction costs prevailing in the locality where such project is to be located, shall have specifically approved the amount of such main construction contract. Every contract made pursuant to this chapter for loans, annual contributions, or capital grants, with respect to a project for which the preparation of plans, drawings, and specifications has not been started or contracted for prior to July 12, 1957, shall require that such plans, drawings, and specifications follow the principle of modular measure in every case deemed feasible by the public housing agency, in order that the housing may be built by conventional construction, on-site fabrication, factory pre-cutting, factory fabrication, or any combination of these construction methods.

(6) Contracts covering more than one project.

Any contract for loans or annual contributions, or both, entered into by the Authority with a public housing agency, may cover one or more than one low-rent housing project owned by said public housing agency; in the event such contract covers two or more projects, such projects may, for any of the purposes of this chapter and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(7) Local responsibilities and determinations.

In recognition that there should be local determination of the need for low-rent housing to meet needs not being adequately met by private enterprise—

(a) The Authority shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any

[1] So in original.

moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-rent housing projects initiated after March 1, 1949, (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Authority that there is a need for such low-rent housing which is not being met by private enterprise; and

(b) the Authority shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this chapter with respect to any low-rent housing project initiated after March 1, 1949, (i) unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Authority pursuant to this chapter; (ii) unless the public housing agency has demonstrated to the satisfaction of the Authority that a gap of at least 20 per centum (except in the case of a displaced family or an elderly family) has been left between the upper rental limits for admission to the proposed low-rent housing and the lowest rents at which private enterprise unaided by public subsidy is providing (through new construction and available existing structures) a substantial supply of decent, safe, and sanitary housing toward meeting the need of an adequate volume thereof; and (iii) unless the public housing agency has demonstrated to the satisfaction of the Authority that there is a feasible method for the temporary relocation of the individuals and families displaced from the project site, and that there are or are being provided, in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of such individuals and families, decent, safe, and sanitary dwellings equal in number to the number of and available to such individuals and families and reasonably accessible to their places of employment.

(8) Relocation payments; inclusion with development or acquisition cost for determination of loans and contributions; definition.

The Authority may authorize the cost of relocation payments made by the public housing agencies to be included with the development of acquisition cost of any project for purposes of determining the amount of loans and annual contributions authorized to be made with respect to such project under sections 1409 and 1410 of this title, but such costs shall be separately stated as relocation costs. For purposes of this paragraph, a "relocation payment" is a payment (i) which is made to an individual, family, business concern, or nonprofit organization displaced on or after January 27, 1964, from a low-rent housing project site as a result of the acquisition of real property by a public housing agency, (ii) which is not otherwise authorized under any Federal law, and (iii) which is made only on such terms and conditions, and subject to such limitations, as are authorized (as of the time such payment is approved) under section 1465 (b), (c), and (d) of this title for relocation payments made to individuals, families, business concerns, or nonprofit organizations as the case may be.

(9) Purchase of dwelling unit by member of tenant family in low-rent public housing project for occupancy by himself or members of his family; terms.

Notwithstanding any other provision of this chapter, but subject to the provisions of any contract with the Authority, any public housing agency may permit any member of a tenant family to enter into a contract (either individually or as a member of a group) for the acquisition of a dwelling unit in any project of the public housing agency, if the property to be acquired is sufficiently separable from other property retained by the public housing agency to make it suitable for sale and for occupancy by such purchaser or a member or members of his family, upon the following terms:

(A) The purchaser shall pay at least (i) a pro rata share cost of any services furnished him by the public agency, including but not limited to, administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses. (ii) local taxes on his dwelling unit, and (iii) monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years: *Provided,* That the public housing agency may, under terms and conditions to be prescribed by it, permit a purchaser to apply an amount equal to the net rent paid for his dwelling unit, over a period not exceeding three years prior to the entering into of any such contract, toward the purchase price of such unit;

(B) The interest rate shall be fixed at not less than the average interest cost of loans outstanding on the project, except that in the case of a project on which bonds are not outstanding the interest rate shall be fixed at not less than the going Federal rate applicable to such project;

(C) The principal payments shall be not less than one-half of 1 per centum per annum of the sales price during the first five years after purchase, 1 per centum per annum during the next five years, 1½ per centum per annum during the third five years, and thereafter not less than the principal payments resulting from a level debt service of interest and principal over the balance of the payment period; and

(D) If at any time (i) a purchaser fails to carry out his contract with the public housing agency and if no member of his family who resides in the dwelling assumes such contract, or (ii) the purchaser or a member of his family who assumes the contract does not reside in the dwelling, the public housing agency shall have an option to acquire his interest under such contract upon payment to him or his estate of an amount equal to his aggregate principal payments plus the value to the public housing agency of any improvements made by him, less an amount equal to 2½ per centum of the sales price.

(10) Repealed. Pub. L. 91–609, title IX, § 903(d), Dec. 31, 1970, 84 Stat. 1809.

(11) Limitation on high-rise elevator projects.

Except in the case of housing predominantly for the elderly, upon enactment of this paragraph, the Secretary shall not approve high-rise elevator projects for families with children unless he makes a determination that there is no practical alternative.

(12) Congregate housing for the displaced, elderly, and handicapped.

The Secretary shall encourage public housing agencies, in providing housing predominantly for displaced, elderly, or handicapped families, to design, develop, or otherwise acquire such housing to meet the special needs of the occupants and, wherever practicable, for use in whole or in part as congregate housing: *Provided,* That not more than 10 per centum of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Developmet Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing. As used in this paragraph, the term "congregate housing" means low-rent housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation. Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing(other than the cost of providing food and service) shall be considered one of the costs of providing food and service) shall be considered one of the costs of administration of the project (Sept. 1, 1937, ch. 896, § 15, 50 Stat. 895; July 31, 1947, ch. 418, § 1, 61 Stat. 704; July 15, 1949, ch. 338, title III, §§ 301, 303, 304(j), 63 Stat. 427; Aug. 2, 1954, ch. 649, title IV, § 401 (3), (4), 68 Stat. 631; Aug. 7, 1956, ch. 1029, title IV, § 404(c), 70 Stat. 1104; July 12, 1957, Pub. L. 85–104, title IV, § 401 (b), (c), 71 Stat. 302; Sept. 23, 1959, Pub. L. 86–372, title V, §§ 503(b), 506, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87–70, title II, §§ 204(b), 205(b), 206(a), 75 Stat. 164; Sept. 2, 1964, Pub. L. 88–560, title IV, §§ 401(c), 405(a), 406, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89–117, title IV, § 404(c)(2), title V, §§ 506, 507 (a), (b)(3), 79 Stat. 486–488; May 25, 1967, Pub. L. 90–19, § 2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90–448, title II, §§ 204, 205, 207, 82 Stat. 503, 504; Dec. 24, 1969, Pub. L. 91–152, title II, §§ 215, 216, 83 Stat. 389, 390; Dec. 31, 1970, Pub. L. 91–609, title II, §§ 207, 209 (a), title IX, § 903(d), 84 Stat. 1777, 1778, 1809.)

REPEAL

Provisions of pars. (7)(B)(iii) and (8), second sentence, of this section repealed by Pub. L. 91–646, title II, § 220(a)(6), Jan. 2, 1971, 84 Stat. 1983, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State, but such sections completely applicable to all States after July 1, 1972. Until such date applicable to a State to the extent the State is able under its laws to comply with such sections. See section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

REFERENCES IN TEXT

Upon enactment of this paragraph, referred to in par. (11), means upon enactment of Pub. L. 90–448, which was approved on August 1, 1968.

Section 202 of the Housing and Urban Development Act of 1970, referred to in par. (12), in amending section 1410(e) of this title increased public housing contribution from $170,000,000 to $320,000,000 on July 1, 1970, and provided contribution of $225,000,000 on July 1, 1971.

AMENDMENTS

1970—Par. (5). Pub. L. 91–609 substituted as basis for computation of annual contributions for project construction and equipment costs 10 per centum of appropriate prototype costs for area, including annual determination of prototype costs, considerations involved, and publication in Federal Register for prior provisions limiting dwelling-unit costs to $2,800 per room ($3,900 per room in case of Alaska, and in case of accommodations designed for elderly families $4,000 per room and $4,500 per room in case or Alaska, and where such cost limitations were not feasible for sound standards of construction, design, and livability, and housing needs were acute, otherwise applicable limitations might be exceeded by $1,500 per room in accommodations for elderly families and $1,400 per room in any other case.

Par. (10). Pub. L. 91–609 repealed provisions which authorized contracts and grants to finance tenant services for families living in low-rent housing projects and definition of "tenant services" (now covered in section 1402(6) of this title), appropriations authorization of 15 and 30 million dollars for fiscal years ending June 30, 1969, and 1970, respectively, and provision for availability of appropriated amounts until expended and for appropriation for succeeding fiscal years commencing prior to July 1, 1971, any amounts authorized for any fiscal year but not appropriated.

Par. (12). Pub. L. 91–609 added par. (12).

1969—Par. (5). Pub. L. 91–152, § 215, substituted "$2,800" for "$2,400", "$3,900" for "$3,500", "$4,000" for "$3,500", "$4,500" for "$4,000", and "$1,500 per room in the case of accommodations designed specifically for elderly families, or $1,400 per room in any other case," for "$750 per room".

Par. (10). Pub. L. 91–152, § 216, substituted "July 1, 1971" for "July 1, 1970".

1968—Par. (9). Pub. L. 90–448, § 205, substituted ", if the property to be acquired is sufficiently separable from other property retained by the public housing agency to make it suitable" for "which is suitable by reason of its detached or semidetached construction."

Par. (10). Pub. L. 90–448, § 204, added par. (10).

Par. (11). Pub. L. 90–448, § 207, added par. (11).

1967—Par. (5). Pub L. 90–19 substituted "Secretary" for "Administrator".

1965—Pars. (1), (2), (3). Pub. L. 89–117, § 507(b)(3), inserted "(except pursuant to paragraph (9), of this section)" following "acquisition" the first place it appears in each par.

Par. (5). Pub. L. 89–117, § 506, substituted "$2,400" for "$2,000", "$3,500" for "$3,000", and "$4,000" for "$3,500".

Par. (8). Pub. L. 89–117, § 404(c)(2), substituted "section 1465 (b), (c), and (d)" for "section 1465 (b) or (c)".

Par. (9). Pub. L. 89–117, § 507(a), added par. (9).

1964—Par. (7)(b). Pub. L. 88–560, §§ 401(c), 405(a), substituted "displaced family" for "family displaced by urban renewal or other governmental action", and added clause (iii).

Par. (8). Pub. L. 88–560, § 406, added par. (8).

1961—Subsec. (5). Pub. L. 87–70, § 206(a) (1), (2), inserted the phrase "on which the computation of any annual contributions under this chapter may be based" following "nondwelling facilities)", and increased the maximum limitation in the case of Alaska and in the case of accommodations designed specifically for elderly

persons from $2,500 to $3,000 per room, and in the case of accommodations in Alaska designed specifically for elderly persons from $2,500 to $3,500 per room.

Subsec. (6). Pub. L. 87–70, § 206(a)(3), redesignated subsec. (9) as subsec. (6) and eliminated former subsec. (6) which related to the payment of excess dwelling-unit costs.

Subsec. (7)(b). Pub. L. 27–70, § 206(a)(4), substituted the parenthetical phrase "(except in the case of a family displaced by urban renewal or other governmental action or an elderly family)" for "(or 5 per centum in the case of any family entitled to a first preference as provided in section 1410(g) of this title)."

Subsec. (8). Pub. L. 87–70, § 205(b), repealed former subsec. (8) which required all contracts for annual contributions for low-rent housing projects to contain certain conditions as to income limitations, admission policies and preferences. See section 1410(g) of this title.

Subsec. (9). Pub. L. 87–70, § 206(a)(3), redesignated subsec. (9) as (6).

Subsec. (10). Pub. L. 87–70, § 204(b), redesignated former subsec. (10) of this section, which was added by Pub. L. 86–372, § 507, as subsec. (i) of section 10 of act Sept. 1, 1937, which provisions are now contained in section 1410(i) of this title.

1959—Subsec. (7)(b). Pub. L. 86–372, § 503(b), inserted parenthetical clause "(or 5 per centum in the case of any family entitled to a first preference as provided in section 1410(g) of this title)."

Subsec. (8)(b). Pub. L. 86–372, § 506, substituted "October 1, 1961" for "March 1, 1959."

Subsec. (10). Pub. L. 86–372, § 507, added subsec. (10).

1957—Subsec. (5) Pub. L. 85–104, raised the per-room cost limits from $1,750 to $2,000 for regular units, and from $2,250 to $2,500 for elderly person units, and added sentence requiring public housing plans and specifications to follow the principle of modular measure.

1956—Subsec. (5). Act Aug. 7, 1956, inserted after "Alaska", the words "or $2,250 in the case of accommodations designed specifically for elderly families".

1954—Subsec. (8)(b). Act Aug. 2, 1954, in clause (ii), substituted "or was to be displaced by any low-rent housing project or by any public slum-clearance, redevelopment or urban renewal project, or through action of a public body or court, either through the enforcement of housing standards or through the demolition, closing, or improvement of a dwelling unit or units" for "or was to be displaced by another low-rent housing project or by a public slum-clearance or redevelopment project"; and, at the end thereof, substituted "not later than March 1, 1959" for "not later than five years after March 1, 1949".

1959—Subsec. (5). Act July 15, 1949, changed limitation from $4,000 per family-dwelling unit or $1,000 per room to $1,750 per room in the United States and $2,500 per room in Alaska, and allowed the Administrator to exceed this limitation up to $750 per room in certain instances.

Subsecs. (7) and (8). Act July 15, 1949, added subsecs. (7) and (8).

Subsec. (9). Act July 15, 1949, § 304(j), added subsec. (9).

1947—Subsec. (6). Act July 31, 1947, provided for payment of excess dwelling-unit costs by the public housing agency of a State or political subdivision.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 209(b) of Pub. L. 91–609 provided that: "This section becomes effective on such date as the Secretary of Housing and Urban Development prescribes, but not later than one hundred and twenty days following the date of enactment of this Act [Dec. 31, 1970]."

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

The words "Authority" and "Administrator" were used in the amendment of this section by act July 15, 1949, without reference to 1947 Reorg. Plan No. 3, which substituted "Administration" for "Authority" and "Commissioner" for "Administrator".

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91–646 as not affected by such repeal, see section 220(b) of Pub. L. 91–646, set out as a note under section 4621 of this title.

APPLICATION FOR PRELIMINARY LOANS APPROVED PRIOR TO SEPTEMBER 2, 1964

Section 405(b) of Pub. L. 88–560 provided that: "The amendments made by subsection (a) [amending par. (7)(b) of this section] shall not be applicable to any project for which an application for preliminary loan has been approved by the local governing body prior to the date of the enactment of this Act [Sept. 2, 1964]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1410, 1421a, 1421b of this title and in title 12 sections 1701s, 1715z, 1715z–1.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in District of Columbia Code, § 5–117.

§ 1416. Labor protection.

In order to protect labor standards—

(1) Minimum wages; bonds of contractors.

The provisions of sections 276a to 276a–5 and 270 to 270d of Title 40, shall apply to contracts in connection with the development or administration of Federal projects and the furnishing of materials and labor for such projects: *Provided*, That suits may be brought in the name of the Authority and that the Authority shall itself perform the duties prescribed by sections 276a–2(a) or 270c of Title 40.

(2) Wages to conform to local rates; overtime compensation.

Any contract for loans, annual contributions, capital grants, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the salaries or wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Authority, shall be paid to all architects, technical engineers, draftsmen, and technicians, employed in the development and to all maintenance laborers and mechanics employed in the administration of the low-rent housing or slum-clearance project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, shall be paid to all laborers and mechanics employed in the development of the project involved (including a project for the use of privately built housing in any case, other than under the authority of section 1421b of this title where the public housing agency and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and that each such laborer or mechanic shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in

any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be; and the Authority shall require certification as to compliance with the provisions of this subsection prior to making any payment under such contract.

(3) Applicability of "kick back" provisions.

The provisions of sections 276b and 276c of Title 40 shall apply to any low-rent-housing or slum-clearance project financed in whole or in part with funds made available pursuant to this chapter. (Sept. 1, 1937, ch. 896, § 16, 50 Stat. 896; July 15, 1949, ch. 338, title III, § 307(f), 63 Stat. 430; Aug. 2, 1954, ch. 649, title IV, § 404, 68 Stat. 633; Nov. 3, 1966, Pub. L. 89–754, title X, § 1003, 80 Stat. 1284; May 25, 1967, Pub. L. 90–19, § 2(h), (i), 81 Stat. 20.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsection (2), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Section 276b of Title 40, referred to in subsec. (3), was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. It is now covered by section 874 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1967—Par. (1). Pub. L. 90–19, § 2(h), substituted "suits may" for "suits shall" in the proviso.

Pars. (3)—(5). Pub. L. 90–19, § 2(i), redesignated former par. (5) as (3) and struck out former pars. (3) and (4) providing for application of sections 324 and 325 of title 40 to contracts of the Housing Authority for work in connection with development and administration of Federal projects and for application of workmen's compensation provisions to officers and employees of the Authority, respectively.

1966—Par. (2). Pub. L. 89–754 provided for conformity of wages to local rates in low-rent housing projects consisting of privately built housing and for overtime compensation.

1954—Par. (6). Act Aug. 2, 1954, repealed par. (6) under which contractors were required to submit monthly reports to the Secretary of Labor.

1949—Par. (2). Act July 15, 1949, inserted the phrase "and in such event * * * of the project involved;".

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see 1950 Reorg. Plan No. 14, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3310 of this title.

§ 1417. Repealed. Pub. L. 90–448, title XVII, § 1719(b), Aug 1, 1968, 82 Stat 610.

Section, act Sept. 1, 1937, ch. 896, § 17, 50 Stat. 897, related to capital stock of the Authority.

RETIREMENT OF CAPITAL STOCK

Section 1719(b) of Pub. L. 90–448 provided in part that: "The capital stock referred to in such section [this section] shall be retired, and sum of $1,000,000 represented by such stock shall be returned to the Treasury of the United States."

§ 1417a. Additional functions, powers, and duties of Secretary.

In the performance of, and with respect to, functions, powers, and duties under this chapter, the Secretary shall have (in addition to any authority otherwise vested in him) the functions, powers, and duties set forth in subsections (a), (b), and (e) of section 1749a of Title 12. (Sept. 1, 1937, ch. 896, § 17, as added Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1719(c), 82 Stat. 610.)

§ 1418. Availability of receipts and assets.

All receipts and assets of the Authority shall be available for the purposes of this chapter until expended. (Sept. 1, 1937, ch. 896, § 18, 50 Stat. 897.)

CODIFICATION

Provisions which related to an appropriation of $26,000,000 for fiscal year 1938, which was to remain available for purposes of this chapter until expended, were omitted as executed.

§ 1419. Allocation of other funds to Authority.

Any funds available under any Act of Congress for allocation for housing or slum clearance may, in the discretion of the President, be allocated to the Authority for the purposes of this chapter. (Sept. 1, 1937, ch. 896, § 19, 50 Stat. 897.

§ 1420. Issuance of obligations by Authority; amount, form, and denominations; interest rate; purchase and sale by Treasury; public debt transactions.

The Authority may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which shall not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreement then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations, shall have such maturities, and shall be subject to such terms and conditions as may be prescribed by the Authority with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the notes or other obligations by the Authority. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Authority issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such obligations. The Secretary of the Treasury may at any

time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. (Sept. 1, 1937, ch. 896, § 20, 50 Stat. 898; June 21, 1938, ch. 554, title VI, § 602, 52 Stat. 820; Oct. 30, 1941, ch. 467, 55 Stat. 759; July 15, 1949, ch. 338, title III, § 304(h), 63 Stat. 427; Aug. 1, 1968, Pub. L. 90–448, title II, § 203(b), 82 Stat. 503.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in the text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which is classified to sections 745, former section 747, sections 752, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, and sections 757c–2, 757c–3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

The words, "such Act, as amended", used in the text, refer to the Second Liberty Bond Act.

AMENDMENTS

1968—Pub. L. 90–448 substituted "which shall not, unless authorized by the President, exceed $1,500,000,000" for "not to exceed $1,500,000,000", and inserted provisions directing the Secretary, for the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, to estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies.

1949—Act July 15, 1949, omitted subsections and increased the amount of obligations which may be issued from $800,000,000 to $1,500,000,000.

1941—Act Oct. 30, 1941, excluded from the amount of obligations authorized any obligations which might be issued for refunding purposes.

1938—Act June 21, 1938, substituted a general authorization to issue obligations in a maximum amount of $800,000,000 for previous maximum authorizations of $100,000,000 on or after September 1, 1937, an additional $200,000,000 on or after July 1, 1938, and an additional $200,000,000 on or after July 1, 1939.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

CROSS REFERENCES

United States obligations and evidences of ownership issued after March 27, 1942 as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1410, 1411 of this title.

§ 1421. Deposit of funds; limitation on aid to particular State.

(a) Idle moneys.

Any money of the Authority not otherwise employed may be deposited, subject to check, with the Treasurer of the United States or in any Federal Reserve bank, or may be invested in obligations of the United States or used in the purchase or retirement or redemption of any obligations issued by the Authority.

(b) Federal Reserve banks as financial agents.

The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Authority in the general exercise of its powers, and the Authority may reimburse any such bank for its services in such manner as may be agreed upon.

(c) Authority as financial agent of Government.

The Authority may be employed as a financial agent of the Government. When designated by the Secretary of the Treasury, and subject to such regulations as he may prescribe, the Authority shall be a depository of public money, except receipts from customs. (Sept. 1, 1937, ch. 896, § 21, 50 Stat. 898; July 15, 1949, ch. 338, title III, § 307(g), 63 Stat. 431; Aug. 7, 1956, ch. 1029, title IV, § 403, 70 Stat. 1103; June 30, 1961, Pub. L. 87–70, title II, § 204(c), 75 Stat. 164.)

AMENDMENTS

1961—Subsec. (d). Pub. L. 87–70 repealed former subsec. (d) which provided that not more than 15 per centum of the total annual amount of $336,000,000 provided in this chapter for annual contributions, nor more than 15 per centum of the amounts provided for in this chapter for grants, shall be expended within any one State. See section 1410(e) of this title.

1956—Subsec. (d). Act Aug. 7, 1956, substituted "15" for "10" in two places.

1949—Subsec. (d). Act July 15, 1949, inserted the specific amount of $336,000,000.

TRANSFER OF FUNCTIONS

The United State Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 1421a. Private financing—Sale of public housing agencies' bonds.

To facilitate the enlistment of private capital through the sale by public housing agencies of their bonds and other obligations to others than the Authority, in financing low-rent housing projects, and to maintain the low-rent character of housing projects—

(a) Contracts for annual contributions; terms and conditions.

Every contract for annual contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such sub-

stantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Authority, either to convey title in any case where, in the determination of the Authority (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this chapter, or to deliver possession to the Authority of the project, as then constituted, to which such contract relates: *Provided,* That such conveyance or delivery of title shall be subject to the rights of third parties vested pursuant to paragraph (9) of section 1415 of this title;

(2) the Authority shall be obligated to reconvey or to redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract and as soon as practicable: (i) after the Authority shall be satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this chapter, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or convenants of the public housing agency to the Authority which are then in default. Any prior conveyances and reconveyances, deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Authority pursuant to paragraph (1) of this subsection, upon the subsequent occurrence of a substantial default.

(b) Same; fulfillment of conditions; maximum annual contributions.

Whenever such contract for annual contributions shall include provisions which the Authority, in said contract, determines are in accordance with subsection (a) of this section, and the annual contributions, pursuant to such contract, have been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Authority (notwithstanding any other provisions of this chapter) shall continue to make annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract (in lieu of the provision required by the first sentence of section 1415(3) of this title and notwithstanding any other provisions of law) that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security: *Provided,* That such annual contributions shall not be in excess of the maximum sum determined pursuant to the proviso of section 1410(b) of this title, or, where applicable, the second proviso of section 1410(c) of this title; and in no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(c) Incontestability of obligations; pledge of full faith and credit.

Obligations of a public housing agency which (1) are secured either (A) by a pledge of a loan under an agreement between such public housing agency and the Authority, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Authority, and (2) bear, or are accompanied by, a certificate of the Authority that such obligations are so secured, shall be incontestable in the hands of a bearer, and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Authority as security for such obligations. (Sept. 1, 1937, ch. 896, § 22, as added July 15, 1949, ch. 338, title III, § 304(b), 63 Stat. 424, and amended June 30, 1961, Pub. L. 87–70, title III, § 302(b), 75 Stat. 166; Aug. 10, 1965, Pub. L. 89–117, title V, § 507(b)(4), 79 Stat. 489; May 25, 1967, Pub. L. 90–19, § 2(j), 81 Stat. 20.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–19 struck out "first" preceding "proviso" in the proviso.

1965—Subsec. (a)(1). Pub. L. 89–117 inserted proviso that conveyance or delivery of title be subject to the rights of third parties vested pursuant to paragraph (9) of section 1415 of this title.

1961—Subsec. (c). Pub. L. 87–70 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1413 of this title; title 12 section 24.

§ 1421b. Low-rent housing in private accommodations.

(a) Purpose; approval by local governing bodies; definitions.

(1) For the purpose of providing a supplementary form of low-rent housing which will aid in assuring a decent place to live for every citizen and promote efficiency and economy in the program under this chapter by taking full advantage of vacancies or potential vacancies in the private housing market, each public housing agency shall, to the maximum extent consistent with the achievement of the objectives of this chapter, provide low-rent housing under this chapter in the form of low-rent housing in private accommodations in accordance with this section where such housing in private accommodations can be provided at a cost equal to or less than housing in projects assisted under other provisions of this chapter.

(2) The provisions of this section shall not apply to any locality unless the governing body of the locality has by resolution approved the application of such provisions to such locality.

(3) As used in this section, the term "low-rent housing in private accommodations" means dwelling units in a structure, leased from a private owner, which provide decent, safe, and sanitary dwelling accommodations and related facilities effectively supplementing the accommodations and facilities in low-rent housing assisted under the other provisions of this chapter in a manner calculated to meet the total housing needs of the community in

which they are located; and the term "owner" means any person or entity having the legal right to lease or sublease property containing one or more dwelling units as described in this section.

(b) Survey and listing of available dwelling units.

Beginning as soon as practicable after August 10, 1965, each public housing agency shall conduct a continuing survey and listing of the available dwelling units within the community or communities under its jurisdiction which provide decent, safe, and sanitary dwelling accommodations and related facilities and are, or may be made, suitable for use as low-rent housing in private accommodations under this section.

(c) Invitation to owners to make units available; inspection and approval of offered units; list of approved units.

Each public housing agency, by notification to the owners of housing listed under subsection (b) of this section, or by publication or advertisement, or otherwise, shall from time to time make known to the public in the community or communities under its jurisdiction the anticipated need for dwelling units in such community or communities to be used as low-rent housing in private accommodations under this section, inviting the owners of such dwelling units to make available for purposes of this section one or more of such units (not exceeding 10 per centum of the units in any single structure except to the extent that the agency, because of the limited number of units in the structure or for any other reason, determines that such limit should not be applied). The public housing agency shall conduct appropriate inspections of the units offered to be made available in any residential structure by the owner thereof in response to such invitation, and if—

(1) it finds that such units are, or may be made, suitable for use as low-rent housing in private accommodations within the meaning of subsection (a)(3) of this section, and

(2) the rentals to be charged for such units, as negotiated and agreed to by the agency and the owner of the structure in a manner consistent with subsection (d)(2) of this section, are within the financial range of families of low income,

such agency may approve such units for use as low-rent housing in private accommodations in accordance with (and subject to the applicable limitations contained in) this section. Each public housing agency shall maintain and keep current a list of units approved by it under this subsection, including such information with respect to each such unit as it may consider necessary or appropriate.

(d) Contents and term of contracts for use of approved units.

To the extent of contracts for annual contributions entered into by the Authority with a public housing agency under section 1410(e) of this title, such agency may enter into contracts with the owners of structures containing dwelling units approved under subsection (c) of this section for the use of such units in accordance with this section (and no limitation not specifically provided for in this section shall be imposed by regulations of the Authority on the types or categories of structures or dwelling units, qualifying under subsection (a)(3) of this section and approved under subsection (c) of this section, which may be so used in any community). Each such contract with an owner shall provide (with respect to any unit) that—

(1) the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the contract between the Authority and the agency;

(2) the rental and other charges to be received by the owner shall be negotiated and agreed to by the agency and the owner, and the rental and other charges to be paid by the tenant shall be determined in accordance with the standards applicable to units in low-rent housing projects assisted under the other provisions of this chapter;

(3) the agency shall have the sole right to give notice to vacate, with the owner having the right to make representations to the agency for termination of a tenancy;

(4) maintenance and replacements (including redecoration) shall be in accordance with the standard practice for the building concerned, as established by the owner and agreed to by the agency; and

(5) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

Each contract between a public housing agency and an owner entered into under this subsection shall be for a term of not less than twelve months nor more than one hundred and twenty months, and shall be renewable by such agency and owner at the expiration of such term: *Provided,* That no renewal of such a contract shall result in a total term exceeding two hundred and forty months (or one hundred and eighty months in the case of an existing structure).

(e) Maximum amount of annual contributions; period and aggregate amount of payments; reimbursement of expenses.

The annual contribution under this chapter for a project of a public housing agency for low-rent housing in private accommodations under this section in lieu of any other guaranteed contribution authorized by section 1410 of this title shall not exceed the amount of the fixed annual contribution which would be established under this chapter for a newly constructed project by such public housing agency designed to accommodate the comparable number, sizes, and kinds of families. The period over which payments will be made to a public housing agency for a project of low-rent housing in private accommodations under this section, and the aggregate amount of such payments, under a contract for annual contributions, shall be determined on the basis of the number of units in the community or communities under the jurisdiction of such agency which are in use (or can reasonably be expected to be placed in use) as low-rent housing in private accommodations under this section, taking into account the terms of the leases under which such units are (or will be) so used. In addition, contracts for financial assistance entered into by the Authority with a public housing agency pursuant to this section shall provide for reimbursement of reason-

able and necessary expenses incurred by such agency in conducting surveys, listings, and inspections described in subsections (b) and (c) of this section.

(f) Inapplicability of certain provisions of law.

The provisions of sections 1410(h) and 1415(7) of this title shall not apply to low-rent housing assisted or to be assisted under this section.

(g) Purchase of structures containing leased dwelling units for purpose of resale to tenants; terms and conditions.

To the extent authorized in contracts entered into by the Authority with a public housing agency, such agency may purchase any structure containing one or more dwelling units leased to provide low-rent housing in private accommodations under this section for the purpose of reselling the structure to the tenant or tenants of the structure or to a group of such tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale shall be made subject to such terms and conditions (including provision for deferment of the required downpayment and for elimination of or adjustments in the required interest payments during a temporary period) as may be necessary to enable the tenants involved to make the purchase without undue financial hardship. (Sept. 1, 1937, ch. 896, § 23, as added Aug. 10, 1965, Pub. L. 89–117, title I, § 103(a), 79 Stat. 455, and amended Nov. 3, 1966, Pub. L. 89–754, title X, § 1002, 80 Stat. 1284; Aug. 1, 1968, Pub. L. 90–448, title II, §§ 208, 210, 82 Stat. 504, 505; Dec. 24, 1969, Pub. L. 91–152, title II, § 217(c), 83 Stat. 390; Dec. 31, 1970, Pub. L. 91–609, title II, § 204(a)(1), (b), 84 Stat. 1777.)

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91–609, § 204(a)(1), substituted "a structure" for "an existing structure".

Subsec. (d). Pub. L. 91–609, § 204(b), increased maximum limitation on contracts from sixty to one hundred and twenty months and prohibited renewal of contracts from resulting in a total term exceeding two hundred and forty months (or one hundred and eighty months in case of an existing structure).

1969—Subsec. (f). Pub. L. 91–152 substituted provisions which made inapplicable the provisions of sections 1410 (h) and 1415(7) of this title to low-rent housing assisted or to be assisted under this section for provisions which made inapplicable the provisions of sections 1410(h) and 1415(7) of this title, and the workable program requirement in sections 1410(e) and 1451(c) of this title to low-rent housing in private accommodations provided under this section, or housing purchased (or in the process of purchase) by the public housing agency for resale to tenants as provided in subsec. (g) of this section.

1968—Subsec. (d). Pub. L. 90–448, § 210, inserted parenthetical phrase "(and no limitation not specifically provided for in this section shall be imposed by regulations of the Authority on the types or categories of structures or dwelling units, qualifying under subsection (a)(3) of this section and approved under subsection (c) of this section, which may be so used in any community)."

Subsec. (f). Pub. L. 90–448, § 208(a), inserted provisions making certain provisions of law inapplicable to housing purchased (or in the process of purchase) by the public housing agency for resale to tenants as provided in subsection (g) of this section.

Subsec. (g). Pub. L. 90–448, § 208(b), added subsec. (g).

1966—Subsec. (d). Pub. L. 89–754 increased upper limits on term of lease from thirty-six to sixty months.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1416, 1455 of this title.

§ 1422. Penalties; applicability of general penal statutes concerning moneys.

All general penal statutes relating to the larceny, embezzlement, or conversion or to the improper handling, retention, use, or disposal of public money; or property of the United States shall apply to the moneys and property of the Administration and to moneys and properties of the United States entrusted to the Administration. (Sept. 1, 1937, ch. 896, § 24, formerly § 22, 50 Stat. 899, renumbered § 23, July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431, renumbered § 24, Aug. 10, 1965, Pub. L. 87–117, title I, § 103(a), 79 Stat. 455.)

§§ 1423 to 1426. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Sections, act Sept. 1, 1937, ch. 896, §§ 23–26, 50 Stat. 899, renumbered 24–27, respectively, by act July 15, 1949, ch. 338, title III, § 307 (h), 63 Stat. 431, which related to penalties for false entries and reports, defrauding or hindering, concealment of interest in property, and unlawful use of name, are now all covered by section 1012 of Title 18, Crimes and Criminal Procedure.

§ 1427. Conflict with other laws.

Wherever the application of the provisions of this chapter conflicts with the application of the provisions of section 421 to 425 and 431 to 434 of Title 40 or any other Act of the United States dealing with housing or slum clearance, or any Executive order, regulation, or other order thereunder, the provisions of this chapter shall prevail. (Sept. 1, 1937, ch. 896, § 28, formerly § 27, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307(h), 63 Stat. 431.)

REFERENCES IN TEXT

Sections 431 to 434 of Title 40, referred to in the text, were repealed by act Aug. 14, 1946, ch. 964, § 2 (a), (1), 60 Stat. 1062. See chapter 50 of Title 7, Agriculture.

§ 1428. Availability of funds for District of Columbia.

The President is authorized to make available to the National Capital Housing Authority, from any funds appropriated or otherwise provided to carry out the purposes of this chapter, such sums as he deems necessary to carry out the purposes of the District of Columbia Alley Dwelling Act. Such sums shall be deposited in the Conversion of Inhabited Alleys Fund and thereafter shall remain immediately available for the purposes of the District of Columbia Alley Dwelling Act. (Sept. 1, 1937, ch. 896, § 29, formerly § 28, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307 (h), 63 Stat. 431.)

REFERENCES IN TEXT

The District of Columbia Alley Dwelling Act, referred to in the text, is act June 12, 1934, ch. 465, 48 Stat. 930, as amended, which is classified to the District of Columbia Code § 5–103 et seq.

CHANGE OF NAME

The Alley Dwelling Authority was redesignated the "National Capital Housing Authority" by Ex. Ord. No. 9344, May 21, 1943, 8 F.R. 6805.

§ 1429. Separability clause.

Notwithstanding any other evidences of the intention of Congress, it is declared to be the controlling intent of Congress that if any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder

of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Sept. 1, 1937, ch. 896, § 30, formerly § 29, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307 (h), 63 Stat. 431.)

§ 1430. Short title.

This chapter may be cited as the "United States Housing Act of 1937". (Sept. 1, 1937, ch. 896, § 31, formerly § 30, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, § 307 (h), 63 Stat. 431.)

§ 1431. Administration representation at non-Federal project sites; reimbursement of expenses.

Necessary expenses of providing representatives at the sites of non-Federal projects in connection with the construction of such projects by public housing agencies with aid under this chapter, shall be compensated by such agencies by the payment of fixed fees which in the aggregate will cover the costs of rendering such services, and expenditures for such purpose shall be considered nonadministrative expenses, and funds received from such payments may be used only for the payment of necessary expenses of providing such representatives. (Pub. L. 91-556, title IV, § 401, Dec. 17, 1970, 84 Stat. 1463.)

CODIFICATION

Section was not enacted as a part of the United States Housing Act of 1937 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior acts:

1969—Nov. 26, 1969, Pub. L. 91-126, title III, § 301, 83 Stat. 242.
1968—Oct. 4, 1968, Pub. L. 90-550, title III, § 301, 82 Stat. 956.
1967—Nov. 3, 1967, Pub. L. 90-121, title II, § 201, 81 Stat. 360.
1966—Sept. 6, 1966, Pub. L. 89-555, title II, § 201, 80 Stat. 688.
1965—Aug. 6, 1965, Pub. L. 89-128, title II, § 201, 79 Stat. 542.
1964—Aug. 30, 1964, Pub. L. 88-507, title II, § 207, 78 Stat. 665.
1963—Dec. 19, 1963, Pub. L. 88-215, title II, § 201, 77 Stat. 447.
1962—Oct. 3, 1962, Pub. L. 87-741, title II, § 201, 76 Stat. 739.
1961—Aug. 17, 1961, Pub. L. 87-141, title II, § 201, 75 Stat. 363.
1960—July 12, 1960, Pub. L. 86-626, title II, § 201, 74 Stat. 444.
1959—Sept. 14, 1959, Pub. L. 86-255, title II, § 201, 73 Stat. 517.
1958—Aug. 28, 1958, Pub. L. 85-844, title II, § 201, 72 Stat. 1081.
1957—June 29, 1957, Pub. L. 85-69, title II, § 201, 71 Stat. 241.
1956—June 27, 1956, ch. 452, title II, § 201, 70 Stat. 355.
1955—June 30, 1955, ch. 244, title II, § 201, 69 Stat. 215.
1954—June 24, 1954, ch. 359, title II, § 201, 68 Stat. 297.
1953—July 31, 1953, ch. 302, title II, § 201, 67 Stat. 315.
1952—July 5, 1952, ch. 578, title III, § 301, 66 Stat. 417.
1951—Aug. 31, 1951, ch. 376, title IV, § 401, 65 Stat. 299.
1950—Sept. 6, 1950, ch. 896, ch. VIII, title II, § 201, 64 Stat. 723.
1949—Aug. 24, 1949, ch. 506, title II, § 201, 63 Stat. 659.
1948—June 30, 1948, ch. 773, title II, § 201, 62 Stat. 1190.
1947—July 30, 1947, ch. 358, title II, § 201, 61 Stat. 579.
1946—July 20, 1946, ch. 589, title II, 60 Stat. 592.
1945—May 3, 1945, ch. 106, title I, § 1, 59 Stat. 124.

§ 1432. Repealed. July 15, 1949, ch. 338, title VI, § 606, 63 Stat. 441.

Section, act Aug. 10, 1948, ch. 832, title V, § 503, 62 Stat. 1285, related to State low-rent or veterans' housing projects.

§ 1433. Conversion of State low-rent or veterans' housing projects to Federal projects.

CODIFICATION

Section, act July 15, 1949, ch. 338, title VI, § 606, 63 Stat. 440, which was enacted as part of the Housing Act of 1949 and not as a part of the United States Housing Act of 1937 which comprises this chapter, provided for conversion of state and local low-rent or veterans' housing projects to Federal projects if the contract for State financial assistance for such project was entered into on or after January 1, 1948, and prior to January 1, 1950, and has been omitted as executed.

§ 1434. Records; contents; examination and audit.

Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under this chapter, the Housing Act of 1949, as amended, or any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and the disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 1715r of Title 12) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development or any official or constituent agency thereof and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961. (Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647; June 30, 1961, Pub. L. 87-70, title IX, § 908, 75 Stat. 191; May 25, 1967, Pub. L. 90-19, § 10(h), 81 Stat. 23.)

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in the text, is classified to chapter 8A of this title.

The first day after the first full calendar month following the date of approval of the Housing Act of 1961, referred to in the text, probably means August 1, 1961, which is the first day after the first full calendar month following approval of Pub. L. 87-70, which was approved on June 30, 1961.

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as part of the United States Housing Act of 1937, which comprises this chapter. It consists of the first and third sentences of section 814 of said Housing Act of 1954 (act Aug. 2, 1954). In so far as the same sentences related to the Housing Act of 1949, they are

set out as section 1446 of this title. The second sentence of section 814, along with the third sentence, is set out as section 1715s of Title 12, Banks and Banking, and the fourth (last) sentence thereof is set out as a note under this section, section 1446 of this title, and section 1715s of Title 12.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in the second sentence and "Department of Housing and Urban Development" for "Housing and Home Finance Agency (or any official or constituent thereof)" and "Housing and Home Finance Agency (or such official or constituent thereof)" in the first sentence and for "Housing and Home Finance Agency or any official or constituent agency thereof" in the third sentence, respectively.

1961—Pub. L. 87–70 required record keeping provisions in contracts under the Housing Act of 1949 and in contracts under any other act, prohibited insurance of mortgages covering new or rehabilitated multifamily housing unless the mortgagor certifies that he will keep records, and empowered the Comptroller General to examine and audit records.

EFFECTIVE DATE

The fourth sentence of section 814 of act Aug. 2, 1954, provided that this section should become effective on the first day after the first calendar month following the date of approval of the act (Aug. 2, 1954.)

§ 1435. Access to books, documents, etc., for purpose of audit.

Every contract for loans or annual contributions under this chapter shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under this chapter. (Aug. 2, 1954, ch. 649, title VIII, § 816, 68 Stat. 647; May 25, 1967, Pub. L. 90–19, § 10(i), 81 Stat. 23.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the United States Housing Act of 1937, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Public Housing Commissioner".

§ 1436. Repealed. Pub. L. 91–609, title V, § 503(4), Dec. 31, 1970, 84 Stat 1786.

Section, Pub. L. 87–70, title II, § 207, June 30, 1961, 75 Stat. 165; Pub. L. 88–560, title II, § 203(e), title IV, § 407, Sept. 2, 1964, 78 Stat. 784, 796; Pub. L. 89–117, title XI, § 1105, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, § 18(a), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title XVII, § 1714(a), Aug. 1, 1968, 82 Stat. 607, provided for low-rent housing demonstration programs and development grants. See sections 1701z—1 to 1701z—4 of Title 12, Banks and Banking.

EFFECTIVE DATE OF REPEAL: SAVINGS PROVISION

Section 503 of Pub. L. 91–609 provided in part for repeal of sections 1701d—3, 1701e, 1701e note, and 1901f of Title 12, Banks and Banking, this section, note hereunder, section 1452a, section 1456 note, and sections 3372, 3373 of this title, effective July 1, 1971, except that the repeal shall not affect contracts, commitments, reservations, or other obligations entered pursuant to such provisions prior to July 1, 1971.

REPORT OF SELF-HELP STUDIES AND DEMONSTRATIONS

Section 503(7) of Pub. L. 91–609 repealed Pub. L. 90–448, title XVII, § 1714(b), Aug. 1, 1968, 82 Stat. 607, providing for report to Congress within one year after Aug. 1, 1968, respecting self-help studies and demonstrations.

Chapter 8A.—SLUM CLEARANCE, URBAN RENEWAL, AND FARM HOUSING

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3074 of this title.

SUBCHAPTER I.—GENERAL PROVISIONS.

§ 1441. Congressional declaration of national housing policy.

The Congress declares that the general welfare and security of the Nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation. The Congress further declares that such production is necessary to enable the housing industry to make its full contribution toward an economy of maximum employment, production, and purchasing power. The policy to be followed in attaining the national housing objective established shall be: (1) private enterprise shall be encouraged to serve as large a part of the total need as it can; (2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need; (3) appropriate local public bodies shall be encouraged and assisted to undertake positive programs of encouraging and assisting the development of well-planned, integrated residential neighborhoods, the development and redevelopment of communities, and the production, at lower costs, of housing of sound standards of design, construction, livability, and size for adequate family life; (4) governmental assistance to eliminate substandard and other inadequate housing through the clearance of slums and blighted areas, to facilitate community development and redevelopment, and to provide adequate housing for urban and rural nonfarm families with incomes so low that they are not being decently housed in new or existing housing shall be extended to those localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely upon private enterprise, and without such aid; and (5) governmental assistance for decent, safe, and sanitary farm dwellings and related facilities shall be extended where the farm owner demonstrates that he lacks sufficient resources to provide such housing on his own account and is unable to secure necessary credit for such housing from other sources on terms and conditions which he could reasonably be expected to fulfill. The Department of Housing and Urban Development, and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing, shall exercise their powers, functions, and duties under this or any other law, consistently with the national housing policy declared by this Act and in such manner as will facilitate sustained progress in attaining the national housing objective hereby established, and in such manner as will encourage and assist (1) the production of housing of sound standards of design, construction, livability, and size for adequate family life; (2) the reduction of the costs of housing without sacrifice of such sound standards; (3) the use of new designs, materials, techniques, and methods in residential construction, the use of standardized dimensions and methods of assembly of home-building materials and equipment, and the increase of efficiency in residential construction and maintenance; (4) the development of well-planned, integrated, residential neighborhoods and the development and redevelopment of communities; and (5) the stabilization of the housing industry at a high annual volume of residential construction. (July 15, 1949, ch. 338, § 2, 63 Stat. 413; May 25, 1967, Pub. L. 90–19, § 6(a), 81 Stat. 21.)

References in Text

"This Act", referred to in the text, is Act July 15, 1949, ch. 338, 63 Stat. 413, popularly known as the "Housing Act of 1949", which enacted this chapter and sections 1421a and 1433 of this title and amended sections 24, 84, 1701e, 1701f, 1701h, 1701i, 1703, 1709, and 1738 of Title 12, Banks and Banking and sections 1401, 1402, 1406, 1409–1411, 413–1416, 1420, 1421, 1422 and 1427–1430 of this title.

Amendments

1967—Pub. L. 90–19 substituted "The Department of Housing and Urban Development" for "The Housing and Home Finance Agency and its constituent agencies".

Short Title

Section 1 of act July 15, 1949, provided that act July 15, 1949, should be popularly known as the "Housing Act of 1949". For classification of act July 15, 1949, see note above.

Equal Opportunity in Housing

Executive order relating to equal opportunity in housing, see Ex. Ord. No. 11063, Nov. 20, 1962, 27 F.R. 11527, set out as a note under section 1982 of this title.

Section Referred to in Other Sections

This section is referred to in title 12 section 1701t.

§ 1441a. Congressional reaffirmation of national housing goals.

The Congress finds that the supply of the Nation's housing is not increasing rapidly enough to meet the national housing goal, established in the Housing Act of 1949, of the "realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family". The Congress reaffirms this national housing goal and determines that it can be substantially achieved within the next decade by the construction or rehabilitation of twenty-six million housing units, six million of these for low and moderate income families. (Pub. L. 90–448, title XVI, § 1601, Aug. 1, 1968, 82 Stat. 601.)

References in Text

The statement in the Housing Act of 1949 of the national housing goal of a decent home and suitable living environment for every American family, referred to in text, is set out in section 1441 of this title.

Codification

Section was enacted as part of the Housing and Urban Development Act of 1968 and not as part of the Housing Act of 1949, which comprises this chapter.

Section Referred to in Other Sections

This section is referred to in section 1441b of this title.

§ 1441b. Plan for elimination of all substandard housing and realization of national housing goal; report of the President to the Congress.

Not later than January 15, 1969, the President shall make a report to the Congress setting forth a plan, to be carried out over a period of ten years (June 30, 1968, to June 30, 1978), for the elimination

of all substandard housing and the realization of the goal referred to in section 1441a of this title. Such plan shall—

(1) indicate the number of new or rehabilitated housing units which it is anticipated will have to be provided, with or without Government assistance, during each fiscal year of the ten-year period, in order to achieve the objectives of the plan, showing the number of such units which it is anticipated will have to be provided under each of the various Federal programs designed to assist in the provision of housing;

(2) indicate the reduction in the number of occupied substandard housing units which it is anticipated will have to occur during each fiscal year of the ten-year period in order to achieve the objectives of the plan;

(3) provide an estimate of the cost of carrying out the plan for each of the various Federal programs and for each fiscal year during the ten-year period to the extent that such costs will be reflected in the Federal budget;

(4) make recommendations with respect to the legislative and administrative actions necessary or desirable to achieve the objectives of the plan; and

(5) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

Such report shall, in addition, contain a projection of the residential mortgage market needs and prospects during the coming year, including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such year, together with such recommendations as may be deemed appropriate for encouraging the availability of such funds. (Pub. L. 90–448, title XVI, § 1602, Aug. 1, 1968, 82 Stat. 601.)

CODIFICATION

Section was enacted as part of Housing and Urban Development Act of 1968 and not as part of the Housing Act of 1949, which comprises this chapter.

§ 1441c. Annual reports of the President to the Congress; contents.

On February 15, 1970, and on each succeeding year through 1979, the President shall submit to the Congress a report which shall—

(1) compare the results achieved during the preceding fiscal year for the completion of new or rehabilitating housing units and the reduction in occupied substandard housing with the objectives established for such year under the plan;

(2) if the comparison provided under clause (1) shows a failure to achieve the objectives set for such year, indicate (A) the reasons for such failure; (B) the steps being taken to achieve the objectives of the plan during each of the remaining fiscal years of the ten-year period; and (C) any necessary revision in the objectives established under the plan for each such year;

(3) project residential mortgage market needs and prospects for the coming calendar year including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such period, in order to achieve the objectives of the plan;

(4) provide an analysis of the monetary and fiscal policies of the Government for the coming calendar year required to achieve the objectives of the plan and the impact upon the domestic economy of achieving the plan's objectives for such period;

(5) make recommendations with respect to any additional legislative or administrative action which is necessary or desirable to achieve the objectives of the plan; and

(6) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

(Pub. L. 90–448, title XVI, § 1603, Aug. 1, 1968, 82 Stat. 602; Pub. L. 91–152, title IV, § 412(a), Dec. 24, 1969, 83 Stat. 398.)

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968 and not as part of the Housing Act of 1949, which comprises this chapter.

AMENDMENTS

1969—Pub. L. 91–152 substituted "February 15, 1970" for "January 15, 1970".

§ 1442. Repealed. Aug. 31, 1954, ch. 1158, § 7, 68 Stat. 1026.

Section, act July 15, 1949, ch. 338, title VI, § 607, 63 Stat. 441, related to housing census, and is now covered by section 141 of Title 13, Census.

§ 1443. Provisions as controlling over other laws.

Insofar as the provisions of any other law are inconsistent with the provisions of this Act, the provisions of this Act shall be controlling. (July 15, 1949, ch. 338, title VI, § 610, 63 Stat. 433.)

REFERENCES IN TEXT

"This Act", referred to in the text, is act July 15, 1949, popularly known as the "Housing Act of 1949". For distribution of act July 15, 1949, see note under section 1441 of this title.

§ 1444. Separability of provisions.

Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its applications to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. (July 15, 1949, ch. 338, title VI, § 611, 63 Stat. 443.)

REFERENCES IN TEXT

"This Act", referred to in the text, is act July 15, 1949, popularly known as the "Housing Act of 1949". For distribution of act July 15, 1949, see note under section 1441 of this title.

§ 1445. Repealed. Aug. 9, 1955, ch. 690, § 4 (1), 69 Stat. 625.

Section, act July 15, 1949, ch. 338, title VI, § 612, 63 Stat. 444, related to striking or subversive employees of the Housing and Home Finance Agency and the Department of Agriculture, withholding of their wages, and penalties, and is now covered by sections 3333 and 7311 of Title 5, Government Organization and Employees, and section 1918 of Title 18, Crimes and Criminal Procedure.

§ 1446. Records; contents; examination and audit.

CODIFICATION

Section, act Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647, as amended, related to the keeping of records, provided for their contents, and authorized examination and audit thereof. The provisions are classified to section 1434 of this title.

SUBCHAPTER II.—SLUM CLEARANCE AND URBAN RENEWAL

CROSS REFERENCES

Cost of inspections and of providing representatives at site of projects being undertaken by local public agencies pursuant to this subchapter, see section 1749d of Title 12, Banks and Banking.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 12 sections 1715k, 1749d.

PART A.—URBAN RENEWAL PROJECTS, DEMOLITION PROGRAMS, AND CODE ENFORCEMENT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1450, 1496a of this title.

§ 1450. Urban Renewal Fund.

The authorizations, funds, and appropriations available pursuant to sections 1452 and 1453 of this title shall constitute a fund, to be known as the "Urban Renewal Fund", and shall be available for advances, loans, and grants to local public agencies for urban renewal projects in accordance with the provisions of this subchapter, and all contracts, obligations, assets, and liabilities existing under or pursuant to said sections prior to August 2, 1954 are transferred to said Fund. (July 15, 1949, ch. 338, title I, § 100, as added Aug. 2, 1954, ch. 649, title III, § 302, 68 Stat. 622, and amended Sept. 23, 1959, Pub. L. 86-372, title IV, § 417(1), 73 Stat. 676.)

AMENDMENTS

1959—Pub. L. 86-372 substituted "advances, loans, and grants" for "advances, loans, and capital grants."

COMPLETION OF PROJECTS ENTERED INTO PRIOR TO AUGUST 2, 1954

Section 312 of act Aug. 2, 1954, as amended by Pub. L. 90-19, § 10(a), May 25, 1967, 81 Stat. 22, provided that: "Notwithstanding the amendments of this title to title I of the Housing Act of 1949, as amended [this subchapter], the Secretary, with respect to any project covered by any Federal aid contract executed, or prior approval granted, by him under said title I before the effective date of this Act [Aug. 2, 1954], upon request of the local public agency, shall continue to extend financial assistance for the completion of such project in accordance with the provisions of said title I in force immediately prior to the effective date of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1402 of this title.

§ 1451. Local programs.

(a) Local responsibilities considered by Secretary in extending financial assistance.

In entering into any contract for advances for surveys, plans, and other preliminary work for projects under this subchapter or for grants pursuant to section 1453(d) of this title, the Secretary shall give consideration to the extent to which appropriate local public bodies have undertaken positive programs (through the adoption, modernization, administration, and enforcement of housing, zoning, building and other local laws, codes and regulations relating to land use and adequate standards of health, sanitation, and safety for buildings, including the use and occupancy of dwellings) for (1) preventing the spread or recurrence in the community of slums and blighted areas, and (2) encouraging housing cost reductions through the use of appropriate new materials, techniques, and methods in land and residential planning, design, and construction, the increase of efficiency in residential construction, and the elimination of restrictive practices which unnecessarily increase housing costs.

(b) Encouragement of operations of local public agencies.

In the administration of this subchapter, the Secretary shall encourage the operations of such local public agencies as are established on a State, or regional (within a State), or unified metropolitan basis or as are established on such other basis as permits such agencies to contribute effectively toward the solution of community development or redevelopment problems on a State, or regional (within a State), or unified metropolitan basis. The Secretary shall particularly encourage the utilization of local public agencies established by the States to operate on a statewide basis in behalf of smaller communities within the State which are undertaking or propose to undertake urban renewal programs whenever that arrangement facilitates the undertaking of an urban renewal program by any such community, or provides an effective solution to community development or redevelopment problems in such communities, and is approved by resolution or ordinance of the governing bodies of the affected communities.

(c) Requirements; exceptions; minimum standards housing code.

No contract shall be entered into for any loan or capital grant under this subchapter, and no mortgage shall be insured, and no commitment to insure a mortgage shall be issued, under section 1715k of Title 12, unless (1) there is presented to the Secretary by the locality, a workable program for community improvement (which shall include an official plan of action, as it exists from time to time, for effectively dealing with the problem of urban slums and blight within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated, or slum areas, or to undertake such of the aforesaid activities or other feasible community activities as may be suitably employed to achieve the objectives of such a program, and (2) on the basis of his review of such program, the Secretary determines that such

program meets the requirements of this subsection and certifies that the Federal assistance may be made available in such community: *Provided,* That this sentence shall not apply to the insurance of, or commitment to insure, a mortgage under section 1715k of Title 12, if the mortgaged property is in an area referred to in clause (A)(i) of paragraph (1) of subsection (d) of said section, except that no such mortgage shall be insured, and no commitment to insure such a mortgage shall be issued, with respect to property in any community for which a workable program for community improvement was required and in effect at the time a contract for a loan or capital grant was entered into under this subchapter, unless there is a workable program for community improvement which meets the requirements of this subsection in effect in such community at the time of such insurance or commitment: *Provided further,* That commencing three years after September 2, 1964 or, in the case of an Indian tribe, band, or nation, commencing January 1, 1970, no workable program shall be certified or re-certified unless (A) the locality has had in effect, for at least six months prior to such certification or re-certification, a minmum standards housing code, related but not limited to health, sanitation, and occupancy requirements, which is deemed adequate by the Secretary, and (B) the Secretary is satisfied that the locality is carrying out an effective program of enforcement to achieve compliance with such housing code. Notwithstanding any other provision of law, in the case of a contract with an Indian tribe, band, or nation (or a public housing or other public agency for such tribe, band, or nation established under State or tribal law), the workable program and minimum standards housing code, referred to in the preceding sentence, may be presented to the Secretary by such tribe, band, or nation, and it shall be subject to the requirements of law with respect to such program and code only to the extent that such tribe, band, or nation has the legal jurisdiction and power to carry out such requirements.

(d) Facilities for furnishing urban renewal service and assembly of information.

The Secretary is authorized to establish facilities (1) for furnishing to communities, at their request, an urban renewal service to assist them in the preparation of a workable program as referred to in the subsection (c) of this section and to provide them with technical and professional assistance for planning and developing local urban renewal programs (including rehabilitation projects requiring no additional assistance under this subchapter or self-liquidating redevelopment projects), and (2) for the assembly, analysis and reporting of information pertaining to such programs.

(e) Workable program requirements.

No loan or grant contract may be entered into by the Secretary for an urban renewal project unless he determines that (1) the workable program for community improvement presented by the locality pursuant to subsection (c) of this section is of sufficient scope and content to furnish a basis for evaluation of the need for the urban renewal project; and (2) such project is in accord with the program.

(July 15, 1949, ch. 338, title I, § 101, 63 Stat. 414; Aug. 2, 1954, ch. 649, title III, § 303, 68 Stat. 623; Aug. 11, 1955, ch. 783, title I, § 108(a), 69 Stat. 638; Aug. 7, 1956, ch. 1029, title IV, § 402, 70 Stat. 1103; Sept. 23, 1959, Pub. L. 86–372, title I, § 110(a) (3), (4), title IV, §§ 401, 417(2), 73 Stat. 659, 670, 677; June 30, 1961, Pub. L. 87–70, title I, § 101(b), title III, § 314(a), 75 Stat. 153, 172; Sept. 2, 1964, Pub. L. 88–560, title III, §§ 301(a), 302, 78 Stat. 785; Aug. 10, 1965, Pub. L. 89–117, title I, § 101(f), title III, §§ 302 (a)(1), (b), 305(b), 79 Stat. 453 474, 476; Sept. 9, 1965, Pub. L. 89–174, § 7(d), 79 Stat. 670; May 25, 1967, Pub. L. 90–19, § 6(b), (c), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 513, 82 Stat. 525; Dec. 24, 1969, Pub. L. 91–152, title II, § 217(a), 83 Stat. 390.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–152 struck out the provisions prohibiting any contract for annual contributions or capital grants pursuant to the United States Housing Act of 1937 for any project or projects not constructed or covered by a contract for annual contributions prior to Aug. 1, 1956, prohibiting mortgage insurance or commitment to insure a mortgage under section 1715*l*(d)(3) of Title 12, authorizing mortgage insurance or commitment to insure a mortgage under section 1715*l*(d)(3) of Title 12 if payments with respect to the mortgaged property are made or are to be made under section 1701s of Title 12, and prohibiting mortgage insurance or commitment to insure a mortgage with respect to property in any community for which a workable program for community improvement was required and in effect at the time a contract for annual contributions or capital grants was entered into pursuant to the United States Housing Act of 1937.

1968—Subsec. (c). Pub. L. 90–448, § 513, inserted the phrase "or, in the case of an Indian tribe, band, or nation, commencing January 1, 1970" in the second proviso.

1967—Pub. L. 90–19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)—(e) of this section.

Subsec. (c). Pub. L. 90–19, § 6(c), struck out "to the constituent agencies affected" following "certifies".

1965—Subsec. (c). Pub. L. 89–174 repealed the second proviso so that the Secretary could delegate or redelegate authority to approve the workable program of a locality for dealing with its overall problems of slum and blight, certify that Federal assistance to urban renewal work enumerated under subsec. (c) may be made available to a community, and determine that the relocation requirements of section 1455(c) of this title have been met.

Pub. L. 89–117, §§ 101(f), 302(b), 305(b), added cl. (ii) to the first proviso and the sentence permitting the workable program and minimum standards housing code to be presented to the Administrator by an Indian tribe, band, or nation, and subjecting such program and code to the requirements of law applicable only to the extent that such tribe, band, or nation has the legal jurisdiction and power to carry out such requirements, and substituted "section 105(c)(1)" for "section 105(c)" which for purposes of codification has been changed to "section 1455 (c)(1) of this title.

Subsec. (e). Pub. L. 89–117, § 302(a)(1), added subsec. (e).

1964—Subsec. (c). Pub. L. 88–560, § 301(a), provided that three years after Sept. 2, 1964, no program shall be certified or recertified, unless the locality has had in effect for at least six months, a minimum standards housing code, and the administrator is satisfied that the locality is enforcing such code.

Subsec. (d). Pub. L. 88–560, § 302, included rehabilitation projects requiring no additional assistance under this subchapter or self-liquidating redevelopment projects.

1961—Subsec. (c). Pub. L. 87–70 substituted "under section 1715k or section 1715*l*(d)(3) of Title 12" for "under section 1715k or 1715*l* of Title 12", and "of subsection (d) of said section" for "of subsection (d) of

said section, or under section 1715*l* of Title 12, if the mortgaged property is in an area described in clause (3) of subsection (a) of said section, or in a community referred to in clause (2)(B) of said section", inserted words "for community improvement" following workable program" in cl. (1), and eliminated provisions which prohibited delegation or transfer of the authority vested in the Administrator to make the certifications as to the maximum number of dwelling units needed for the relocation of families to be displaced as a result of governmental action and who would be eligible to rent or purchase dwelling accommodations in properties covered by mortgage insurance under section 1715*l* of Title 12.

1959—Subsec. (a). Pub. L. 86-372, § 417(2), inserted words "or for grants pursuant to section 1453(d) of this title" following "under this subchapter."

Subsec. (b). Pub. L. 86-372, § 401, required the Administrator to encourage the utilization of local public agencies established by the States to operate on a statewide basis in behalf of smaller communities which are undertaking or propose to undertake urban renewal programs whenever that arrangement facilitates the undertaking of an urban renewal program by any such community, or provides an effective solution to community development or redevelopment problems in such communities, and is approved by resolution or ordinance of the governing bodies of the affected communities.

Subsec. (c). Pub. L. 86-372, § 110(a) (3), (4), substituted "if the mortgaged property is in an area described in clause (3) of subsection (a) of said section, or in a community referred to in clause (2)(B) of said section" for "if the mortgaged property is in a community referred to in clause (2) of subsection (a) of said section", and eliminated words "in a community" following "as a result of governmental action" in the last proviso.

1956—Subsec. (c). Act Aug. 7, 1956, inserted after the first comma "or for annual contributions or capital grants pursuant to the United States Housing Act of 1937, as amended, for any project or projects not constructed or covered by a contract for annual contributions prior to August 1, 1956,".

1955—Subsec. (c). Act Aug. 11, 1955, eliminated the requirement that before a contract for annual contributions or capital grants can be entered into the community must have a workable program for the prevention and elimination of slums.

1954—Act Aug. 2, 1954, strengthened the requirements with respect to local responsibility and local action, restricted the delegation of certain final authorities vested in the Administrator, and established facilities for (1) an urban renewal service, and (2) the assembly, etc., of information pertaining to programs under this subchapter.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment of subsec. (c) of this section by Pub. L. 89-174 effective upon expiration of first period of sixty calendar days following Sept. 9, 1965, or an earlier date specified by Executive order, see section 11(a) of Pub. L. 89-174.

Section 302(a)(2) of Pub. L. 89-117 provided that: "The requirements imposed by the amendment made by paragraph (1) [adding subsec. (e) of this section] shall not be applicable to any project which received Federal recognition prior to the date of the enactment of this Act. [Aug. 10, 1965]."

AMENDMENT OF CONTRACTS FOR INCORPORATION OF CERTAIN COST PROVISIONS

Section 301(d) of Pub. L. 88-560 provided that: "Any contract for a capital grant under title I of the Housing Act of 1949 [this subchapter], executed prior to the date of enactment of this Act [Sept. 2, 1964], may be amended to incorporate the provisions of subsection (c) [of section 1460 of this title] for costs incurred on or after such date."

CROSS REFERENCES

"Workable program" requirements of subsection (c) of this section not applicable to urban renewal in disaster area, see section 1462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1410, 1421b, 1452, 1452b, 1460, 1462, 1466, 1467, 1468, 1468a, 1469c of this title and in title 12 section 1715k.

§ 1451a. Repealed. Aug. 2, 1954, ch. 649, title III, § 313, 68 Stat. 629.

Section, acts July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305; June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283, which provided that the authority under this subchapter should be used to the utmost in connection with slum rehabilitation needs, is now covered by other sections in this subchapter. See, particularly, sections 1451 and 1455 of this title.

§ 1452. Loans.

(a) Temporary and definitive loans; amounts; interest rates; security; repayment.

To assist local communities in the elemination of slums and blighted or deteriorated or deteriorating areas, in preventing the spread of slums, blight or deterioration, and in providing maximum opportunity for the redevelopment, rehabilitation, and conservation of such areas by private enterprise, the Secretary may make temporary and definitive loans to local public agencies in accordance with the provisions of this subchapter for the undertaking of urban renewal projects. Such loans (outstanding at any one time) shall be in such amounts not exceeding the estimated expenditures to be made by the local public agency for such purposes, bear interest at such rate (not less than the applicable going Federal rate), be secured in such manner, and be repaid within such period (not exceeding, in the case of definitive loans, forty years from the date of the bonds or other obligations evidencing such loans), as may be deemed advisable by the Secretary. In any case where, in connection with its undertaking and carrying out of an urban renewal project, a local public agency is authorized (under the circumstances in which the temporary loan herein provided is requested) to acquire real property in the urban renewal area, the Secretary, in addition to all other authority under this subchapter and notwithstanding any other provisions of this subchapter, regardless of the stage of development of the urban renewal plan and whether before or after the approval thereof, may make a temporary loan or loans to any such local public agency to finance the acquisition of such real property: *Provided,* That no loan for such purpose shall be made unless (1) the governing body of the locality involved shall have approved by resolution or ordinance the acquisition of real property in the urban renewal area, and (2) either (A) the Secretary shall have determined that such loan is reasonably secured by a first mortgage or other prior lien upon such real property or is otherwise reasonably secured, or (B) the governing body of the locality shall have assumed the responsibility to bear any loss that may arise as the result of such acquisition in the event that the property so acquired is not used for urban renewal purposes because the urban renewal plan for the project is not approved, or is amended to omit any of the acquired property, or is abandoned for any reason: *Provided further,* That the Secretary may, in his discretion and subject to such conditions as he may impose, permit any structure so acquired to be demolished and removed, and may include in any loan authorized by this section

the cost of such demolition and removal, together with administrative, relocation, and other related costs and payments, if the approval of the local governing body extends to such demolition and removal: *And provided further,* That the loan contract shall provide that the local public agency shall not dispose of such real property (except in lieu of foreclosure) until the local governing body of the locality involved shall have either approved the urban renewal plan for the project or consented to the disposal of such real property. Notwithstanding any other provision of this subchapter, the Secretary may make a temporary loan, as described in the first two sentences of this subsection, for two or more urban renewal projects being carried out by the same local public agency. The principal amount of any such loan which is outstanding at any one time shall not exceed the estimated expenditures to be made by the local public agency for such projects.

(b) Projects on open or predominantly open land.

In connection with any project on land which is open or predominantly open, the Secretary may make temporary loans to municipalities or other public bodies for the provision of public buildings or facilities necessary to serve or support the new uses of such land in the project area. Such temporary loans shall be in such amounts not exceeding the expenditures to be made for such purpose, bear interest at such rate (not less than the applicable going Federal rate), be secured in such manner, and be repaid within such period (not exceeding ten years from the date of the obligations evidencing such loans), as may be deemed advisable by the Secretary.

(c) Renegotiation of loans; supplemental grants; pledge of loan contract; payment of principal and interest; construction of contracts and other obligations; incontestability; full faith and credit.

Loans made pursuant to subsection (a) or (b) of this section may be made subject to the condition that, if at any time or times or for any period or periods during the life of the loan contract the local public agency can obtain loan funds from sources other than the Federal Government, it may do so with the consent of the Secretary at such times and for such periods without waiving or surrendering any rights to loan funds under the contract for the remainder of the life of such contract, and, in any such case, the Secretary is authorized to consent to a pledge by the local public agency of the loan contract, and any or all of its rights thereunder, as security for the repayment of the principal of and the interest on the loan funds so obtained from other sources: *Provided,* That at any time during the undertaking of the project the Secretary may make a supplemental grant to the local public agency in the amount of the difference between the interest cost from a source other than the Federal Government and the interest cost at the contract rate or a supplemental grant in an amount which he determines is necessary to enable a local public agency to obtain funds from a source other than the Federal Government, and no part of the amount of any such grant shall be required to be contributed as a part of the local grant-in-aid. In connection with any such pledge of a loan contract, including loan payments thereunder, as security for the repayment of obligations of the local public agency held by other than the Federal Government, the Secretary is authorized to agree to pay, through operations of a paying agent or agents, and to pay or cause to be paid when due, from funds obtained pursuant to subsection (e) of this section, to the holders of such obligations (or to their agents or designees) the principal of and the interest of such obligations, subject to such conditions as the Secretary may determine but without regard to any other condition or requirement. Notwithstanding any other provision of law, any contract or other instrument executed by the Secretary which by its terms, includes an obligation of the Secretary to make payment pursuant to this subsection shall be construed by all officers of the United States separate and apart from the loan contract and shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary pursuant to this subsection.

(d) Advances for surveys and plans; repayment; interest rate; application; General Neighborhood Renewal Plans.

The Secretary may make advances of funds to local public agencies for surveys of urban areas to determine whether the undertaking of urban renewal projects therein may be feasible and for surveys and plans for urban renewal projects which may be assisted under this subchapter, including, but not limited to, (i) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, (ii) plans for the enforcement of State and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (iii) appraisals, title searches, and other preliminary work necessary to prepare for the acquisition of land in connection with the undertaking of such projects. The contract for any such advance of funds shall be made upon the condition that such advance of funds shall be repaid, with interest at not less than the applicable going Federal rate, out of any moneys which become available to the local public agency for the undertaking of the project involved. No contract for any such advances of funds for surveys and plans for urban renewal projects which may be assisted under this subchapter shall be made unless the governing body of the locality involved has by resolution or ordinance approved the undertaking of such surveys and plans and the submission by the local public agency of an application for such advance of funds. Notwithstanding section 1460 (h) of this title or the use in any other provision of this subchapter of the term "local public agency" or "local public agencies" the Secretary may make advances of funds under this subsection for surveys and plans for an urban renewal project (including General Neighborhood Renewal Plans as hereinafter defined) to a single local public body which has the authority to undertake and carry out a substantial portion, as determined by the Secretary, of the surveys and plans or the project respecting which such surveys and plans are

to be made: *Provided,* That the application for such advances shows, to the satisfaction of the Secretary, that the filing thereof has been approved by the public body or bodies authorized to undertake the other portions of the surveys and plans or of the project which the applicant is not authorized to undertake.

In order to facilitate proper preliminary planning for the attainment of the urban renewal objectives of this subchapter, the Secretary may also make advances of funds (in addition to those authorized above) to local public agencies for the preparation of General Neighborhood Renewal Plans (as herein defined). A General Neighborhood Renewal Plan may be prepared for an area consisting of an urban renewal area or areas, together with any adjoining areas having specially related problems, and which is of such size that the urban renewal activities in the urban renewal area or areas may have to be initiated in stages, consistent with the capacity and resources of the respective local public agency or agencies, over an estimated period of not more than eight years. No contract for advances for the preparation of a General Neighborhood Renewal Plan may be made unless the Secretary has determined that:

(1) in the interest of sound community planning, it is desirable that the urban renewal activities proposed for the area be planned in their entirety;

(2) the local public agency proposes to undertake promptly an urban renewal project embracing at least 10 per centum of such area, upon completion of the General Neighborhood Renewal Plan and the preparation of an urban renewal plan for such project; and

(3) the governing body of the locality has by resolution or ordinance (i) approved the undertaking of the General Neighborhood Renewal Plan and the submission of an application for such advance and (ii) represented that such plan will be used to the fullest extent feasible as a guide for the provision of public improvements in such area and that the plan will be considered in formulating codes and other regulatory measures affecting property in the area and in undertaking other local governmental activities pertaining to the development, redevelopment, rehabilitation, and conservation of the area.

The contract for any such advance of funds for a General Neighborhood Renewal Plan shall be made upon the condition that such advance shall be repaid, with interest at not less than the applicable going Federal rate, out of any moneys which become available to the local public agency for the undertaking of the first urban renewal project in such area: *Provided,* That in the event of the undertaking of any other project or projects in such area an appropriate allocation of the amount of the advance, with interest, may be effected to the end that each such project may bear its proper allocable part, as determined by the Secretary, of the cost of the General Neighborhood Renewal Plan. As used herein, a General Neighborhood Renewal Plan means a preliminary plan (conforming, in the determination of the governing body of the locality, to the general plan of the locality as a whole and to the workable program of the community meeting the requirements of section 1451 of this title) which outlines the urban renewal activities proposed for the area involved, provides a framework for the preparation of urban renewal plans and indicates generally, to the extent feasible in preliminary planning, the land uses, population density, building coverage, prospective requirements for rehabilitation and improvement of property, and any portions of the area contemplated for clearance and redevelopment.

(e) Amount of funds outstanding for loans.

The total amount of loan contracts outstanding at any one time under this subchapter shall not exceed the aggregate of the estimated expenditures to be made by local public agencies as part of the gross project cost of the projects assisted by such contracts. To obtain funds for advance and loan disbursements under this subchapter, the Secretary may issue and have outstanding at any one time notes obligations for purchase by the Secretary of the Treasury in an amount which shall not, unless authorized by the President exceed $1,000,000,000. For the purpose of establishing unpaid obligations as of a given date against the authorization contained in the preceding sentence, the Secretary shall estimate the maximum amount to be required to be borrowed from the Treasury and outstanding at any one time with respect to loan commitments in effect on such date.

(f) Notes and obligations; form and denomination; maturity date; interest rate; purchase and sale by Treasury; public debt transaction.

Notes or other obligations issued by the Secretary under this subchapter shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this subchapter and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(g) Tax exemption.

Obligations, including interest thereon, issued by local public agencies for projects assisted pursuant to this subchapter, and income derived by such agencies from such projects, shall be exempt from all taxation now or hereafter imposed by the United States. (July 15, 1949, ch. 338, title I, § 102, 63 Stat. 414; Aug. 2, 1954, ch. 649, title III, § 304, 68 Stat. 624;

Aug. 7, 1956, ch. 1029, title III, §§ 301, 303, 70 Stat. 1097, 1099; Sept. 23, 1959, Pub. L. 86–372, title IV, §§ 402—404, 73 Stat. 671; June 30, 1961, Pub. L. 87–70, title III, §§ 302(a), 314(b), 75 Stat. 166, 172; Sept. 2, 1964, Pub. L. 88–560, title III, § 303(a), 78 Stat. 785; Aug. 10, 1965, Pub. L. 89–117, title III, § 303, 79 Stat. 475; May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 507(a), 82 Stat. 522; Dec. 24, 1969, Pub. L. 91–152, title II, § 208, 83 Stat. 387.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (f), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, and sections 757c–2, 757c–3, 757d, 757e, 758, 760, 764, 765, 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–152 substituted provisions that, at any time during the undertaking of the project, the Secretary is authorized to make a supplemental grant to the local public agency in an amount determined by the specified formula or an amount determined to be necessary by the Secretary to enable a local public agency to obtain funds from a source other than the Federal Government, for provisions that, if at any time during the undertaking of the project, the interest rate on a loan from a source other than the Federal Government was greater than the rate at which funds could be made available under the Federal loan contract, the Secretary could make a supplemental grant to the local public agency in an amount determined by the difference between the interest cost from such sources and the interest cost at the contract rate.

1968—Subsec. (c). Pub. L. 90–448 eliminated provisions which related to obtaining loan funds from sources other than the Federal Government at interest rates lower than provided in the loan contract, and inserted proviso permitting the Secretary to make a supplemental grant, if at any time during the undertaking of the project, the interest rate on a loan from a source other than the Federal Government is greater than the rate at which funds could be made available under the Federal loan contract.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)—(f) of this section.

1965—Subsec. (d). Pub. L. 89–117 deleted "for urban renewal areas of such scope that the urban renewal activities therein may have to be carried out in stages, consistent with the capacity and resources of the respective local public agency, over an estimated period of not more than ten years" following "(as herein defined)" in the first sentence of the second paragraph, added the second sentence of the second paragraph, and substituted "urban renewal activities proposed for the area be planned in their entirety" for "urban renewal area be planned for urban renewal purposes in its entirety" in the first numbered paragraph.

1964—Subsec. (a). Pub. L. 88–560 authorized the Administrator to make temporary loans for two or more urban renewal projects being carried out by the same local public agency, not exceeding at any one time, the estimated expenditures to be made by the local public agency for such projects.

1961—Subsec. (a). Pub. L. 87–70, § 314(b), inserted the words, "together with administrative, relocation, and other related costs and payments," following "the cost of such demolition and removal."

Subsec. (c). Pub. L. 87–70, § 302(a), authorized the Administrator, in connection with any pledge of a loan contract, including loan payments thereunder, as security for the repayment of obligations of the local public agency held by other than the Federal Government, to agree to pay, through operations of a paying agent or agents, and to pay or cause to be paid when due, to the holders of such obligations (or to their agents or designees) the principal and interest on such obligations, and inserted provisions requiring contracts or other instruments which include an obligation of the Administrator to make payment pursuant to this subsection to be construed separate and apart from the loan contract, which state that they are incontestable and which pledge the full faith and credit of the United States to the payment.

1959—Subsec. (a). Pub. L. 86–372, §§ 402(a), 403, substituted "for such purposes" for "as part of the gross project cost" in the second sentence, and inserted provisions authorizing the Administrator to make a temporary loan or loans to a local public agency to finance the acquisition of real property regardless of the stage of development of the urban renewal plan and whether before or after the approval thereof.

Subsec. (c). Pub. L. 86–372, § 402(b), substituted "repayment of the principal of and the interest on the loan funds" for "repayment of the loan funds."

Subsec. (e). Pub. L. 86–372, § 404, among other changes, inserted provisions limiting the total amount of loan contracts outstanding at any one time under this subchapter to not more than the aggregate of the estimated expenditures to be made by local public agencies as part of the gross project cost of the projects assisted by such contracts, and requiring the Administrator, for the purpose of establishing unpaid obligations as of a given date against the authorization, to estimate the maximum amount to be required to be borrowed from the Treasury and outstanding at any one time with respect to loan commitments in effect on such date, and eliminated provisions which authorized the limitation (subject to the total authorization of $1,000,000,000) to be increased by additional amounts aggregating not more than $250,000,000 upon a determination by the President, after receiving advice from the Council of Economic Advisers as to the general effect of such increase upon the conditions in the building industry and upon the national economy, that such action is in the public interest.

1956—Subsec. (d). Act Aug. 7, 1956, added provisions to permit Administrator to advance funds for surveys to agency authorized to carry out substantial portion of project respecting which surveys and plans are to be made, provided application for advances shows filing has been approved by public bodies authorized to undertake other portions of project which applicant is not authorized to undertake, added "surveys of urban areas to determine whether the undertaking of urban renewal projects therein may be feasible and for" following "The Administrator may make advances of funds to local public agencies for", and added provisions at the end relating to General Neighborhood Renewal Plans.

1954—Subsec. (a). Act Aug. 2, 1954, § 304 (1)(2), in first sentence, redefined the areas to be eliminated, and redefined "projects" (referred to as urban renewal projects); and, in second sentence, substituted "estimated expenditures" for "expenditures", and substituted "bonds or other obligations" for "bonds".

Subsec. (b). Act Aug. 2, 1954, § 304 (3) (4), near end of first sentence, inserted "such" before "land", and, in second sentence, substituted "at" for "as", before "such rate".

Subsec. (d). Act Aug. 2, 1954, § 304(5), included among the advances of funds (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, (2) plans for enforcement of State and local laws, codes and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, demolition or removal of buildings and improvements, and (3) appraisals, title searches and other preliminary work necessary to prepare for the acquisition of land in connection with the undertaking of the projects referred to, and provided that no such advance could be made in connection with any urban renewal project unless the governing body of the locality involved has approved (by resolution or ordinance) the undertaking of the surveys and plans and the submission by the local public agency of an application for the advance of funds.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers

and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

DELEGATION OF FUNCTIONS

For delegation of functions, vested in the President by subsection (e) of this section, to the Housing and Home Finance Administrator, see Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

AMENDMENT OF LOAN CONTRACTS OUTSTANDING ON AUGUST 1, 1968

Section 507(b) of Pub. L. 90–448 provided that: "Loan contracts outstanding on the date of enactment of this section [Aug. 1, 1968] may be amended to incorporate the provisions authorized by the amendment contained in subsection (a) [to subsec. (c) of this section] without regard to the proviso in section 110(g) of the Housing Act of 1949 [section 1460(g) of this title]."

TEMPORARY RELIEF FROM INTEREST RATE CONFLICT BETWEEN FEDERAL AND STATE LAW

Pub. L. 91–351, title VII, § 702, July 24, 1970, 84 Stat. 462, provided that: "Notwithstanding any other law, from the date of enactment of this title [July 24, 1970] until July 1, 1972, loans to local public agencies under title I of the Housing Act of 1949 [this subchapter] and to local public housing agencies under the United States Housing Act of 1937 [section 1401 et seq. of this title] may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, bear interest at a rate less than the applicable going Federal rate but not less than 6 per centum per annum."

CROSS REFERENCE

Blighted or deteriorated area requirement, urban renewal disaster area, see section 1462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1450, 1453, 1460, 1462, 1465 of this title.

§ 1452a. Repealed. Pub. L. 91–609, title V, § 503(2), Dec. 31, 1970, 84 Stat. 1785.

Section, acts Aug. 2, 1954, ch. 649, title III, § 314, 68 Stat. 629; Sept. 2, 1964, Pub. L. 88–560, title III, § 313, 78 Stat. 792; May 25, 1967, Pub. L. 90–19, § 14(a), (c), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1702, 82 Stat. 603, provided for grants for preventing an eliminating slums and urban blight; preferences; reports, summaries, and information material; aggregate amount; and advance or progress payments. See sections 1701z—1 to 1701z—4 of Title 12, Banks and Banking.

§ 1452b. Rehabilitation loans.

(a) Considerations.

The Secretary is authorized, through the utilization of local public and private agencies where feasible, to make loans as herein provided to the owners and tenants of property to finance the rehabilitation of such property. No loan shall be made under this section unless—

(1) (A) the property is situated in an urban renewal area or an area in which a program of concentrated code enforcement activity is being carried out pursuant to section 1468 of this title, and the rehabilitation is required to make the property conform to applicable code requirements or to carry out the objectives of the urban renewal plan for the area and, in addition, to generally improve the condition of the property; or

(B) (i) the property is in an area (other than an area described in subparagraph (A)[1] which the governing body of the locality has determined, and so certifies to the Secretary, contains a substantial number of structures in need of rehabilitation, (ii) there is in effect for the locality a workable program meeting the requirements of section 1451(c) of this title; (iii) the property is residential and owner-occupied, (iv) the property is in need of rehabilitation and is in violation of the local minimum housing or similar code, and (v) the area is definitely planned for rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with the plan for rehabilitation or code enforcement; or

(C) (i) the property has been determined to be uninsurable because of physical hazards after an inspection pursuant to a statewide property insurance plan approved by the Secretary under title XII of the National Housing Act, and (ii) the loan is made to the owner or tenant of the property to finance rehabilitation which the Secretary determines to be necessary to make the property meet reasonable underwriting standards:

(2) the applicant is unable to secure the necessary funds from other sources upon comparable terms and conditions; and

(3) the loan is an acceptable risk taking into consideration the need for the rehabilitation, the security available for the loan, and the ability of the applicant to repay the loan.

In making loans with respect to residential property under this section, priority shall be given to applications made by persons whose annual income, as determined pursuant to criteria and procedures established by the Secretary, is within the limitations prescribed by the Secretary for occupants of projects financed with below-market interest rate mortgages insured (in the area involved) under section 1715*l*(d)(3) of Title 12.

(b) Definitions.

For the purposes of this section—

(1) the term "rehabilitation" means the improvement or repair of a structure or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, the urban renewal plan, or a statewide property insurance plan to be provided by the owner or tenant of the property;

(2) the term "urban renewal area" means a slum area or a blighted, deteriorated, or deteriorating area as defined in section 1460(a) of this title

(3) the term "tenant" means a person or organization who is occupying a structure under a lease having a period to run at the time a rehabil-

[1] So in original. Probably should have close parenthesis.

itation loan is made under this section of not less than the term of the loan; and

(4) the term "Secretary" means the Secretary of Housing and Urban Development.

(c) Limitations.

A rehabilitation loan made under this section shall be subject to the following limitations:

(1) The loan shall be subject to such terms and conditions as may be prescribed by the Secretary.

(2) The term of the loan may not exceed twenty years or three-fourths of the remaining economic life of the structure after rehabilitation, whichever is less.

(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate but not to exceed 3 per centum per annum of the amount of the principal outstanding at any time, and the Secretary may prescribe such other charges as he finds necessary, including service charges and appraisal, inspection, and other fees.

(4) The amount of the loan may not exceed—

(A) in the case of residential property, the amount of a loan which could be insured by the Secretary of Housing and Urban Development under section 1715k(h) of Title 12: *Provided,* That, within the limitations otherwise applicable on the amount of a loan under such section, the loan may exceed the cost of rehabilitation in order to include an amount approved by the Secretary to refinance existing indebtedness secured by such property if such refinancing is necessary to enable the applicant to amortize, with a monthly payment of not more than 20 per centum of his average monthly income, such loan and any other indebtedness secured by his property; and

(B) in the case of nonresidential property, whichever of the following is the least: $50,000, or the cost of rehabilitation, or an amount which when added to any outstanding indebtedness related to the property securing the loan creates a total outstanding indebtedness that the Secretary determines could be reasonably secured by a first mortgage on the property.

(5) A loan shall be secured as determined by the Secretary.

(d) Authorization of appropriations; revolving fund.

There is authorized to be appropriated not to exceed $150,000,000 for each fiscal year which shall constitute a revolving fund to be used by the Secretary in carrying out this section. All moneys in such revolving fund shall be available for necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private agency for the servicing of such loans.

(e) Additional functions, powers and duties of Secretary.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary shall have (in addition to any authority otherwise vested in him) the functions, powers, and duties set forth in section 1749a of Title 12 (except subsection (c)(2)).

(f) Use of Federal or local public or private agency or organization as agent of Secretary.

The Secretary is authorized to delegate to or use as his agent any Federal or local public or private agency or organization to the extent he determines appropriate and desirable to carry out the objectives of this section in the area involved.

(g) Rules and regulations; requirements and conditions.

The Secretary is authorized to issue such rules and regulations and impose such requirements and conditions (in addition to those specified in this section) as he determines to be desirable to carry out the objectives of this section, including limitations on the amount of a loan and restrictions on the use of the property involved.

(h) Termination date.

No loan shall be made under the authority of this section after June 30, 1973, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section before that date. (Pub. L. 88–560, title III, § 312, Sept. 2, 1964, 78 Stat. 790; Aug. 10, 1965, Pub. L. 89–117, title III, §§ 311(e), 312, 79 Stat. 479; May 25, 1967, Pub. L. 90–19, § 21(b), 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, title V, § 509, title VIII, § 807(b), 82 Stat. 523, 544; Dec. 24, 1969, Pub. L. 91–152, title II, § 207, 83 Stat. 387.)

REFERENCE IN TEXT

Title XII of the National Housing Act, referred to in subsec. (a), is classified to section 1749bbb et seq. of Title 12, Banks and Banking.

CODIFICATION

Section was not enacted as part of title I of the Housing Act of 1949, which comprises this chapter.

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–152 substituted provisions requiring that priority be given to applications made by persons whose annual income is within the limitations prescribed by the Secretary pursuant to established criteria and procedures for provisions requiring that no loan with respect to residential property be made to any person whose annual income exceeds the limits prescribed by the Secretary pursuant to established crtieria and procedures, with the proviso that this limitation not apply to property in the area of an urban renewal project or a code enforcement project.

1968—Subsec. (a). Pub. L. 90–448, § 509(c), (d)(1), (e), empowered the Secretary to make loans if the property is in an area (other than an area described in subpar. (A)) which the governing body of the locality has determined contains a substantial number of structures in need of rehabilitation, there is in effect a working program meeting requirements of section 1451(c) of this title, the property is residential and owner-occupied, the property is in need of rehabilitation and is in violation of the local minimum housing or similar code, and the area is definitely planned for rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation is consistent with the plan for rehabilitation or code enforcement, additionally authorized loans if the property has been determined to be uninsurable because of physical hazards and the loan is made to finance rehabilitation to make the property meet reasonable underwriting standards, prohibited loans with respect to residential property to any person whose annual income exceeds the limits prescribed for occupants of projects financed with below-market interest rate mortgages insured under section 1715*l*(d)(3) of Title 12, and excepted from this prohibition property in the area of an urban renewal project or a code enforcement project for which the city or other local public body or agency is receiving financial assistance, if, prior to August 1, 1968, the local public body or agency specifically developed plans for such project in reliance upon the availability of loans.

Subsec. (b)(1). Pub. L. 90–448, § 509(d)(2), included the provision of such sanitary or other facilities as are required by a statewide property insurance plan.

Subsec. (d) Pub. L. 90–448, §§ 509(a), 807(b), substituted "$150,000,000" for "$100,000,000", and "Government National Mortgage Association" for "Federal National Mortgage Association."

Subsec. (h). Pub. L. 90–448, § 509(b), extended the termination date from October 1, 1969, to June 30, 1973.

1967—Pub. L. 90–19, § 21(b)(1), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (c)(1), (3), (4) (A), (B), and (d)—(g) of this section.

Subsec. (a). Pub. L. 90–19, § 21(b)(2), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

Subsec. (b)(4). Pub. L. 90–19, § 21(b)(3), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

Subsec. (c)(4)(A). Pub. L. 90–19, § 21(b)(4), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (a). Pub. L. 89–117, §§ 311(e), 312(a), inserted "or an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 1468 of this title", and substituted "comparable" for "reasonable".

Subsec. (d). Pub. L. 89–117, § 312(b), substituted "$100,000,000 for each fiscal year" for "$50,000,000", and made all moneys in the revolving fund available for the necessary expenses of servicing loans made pursuant to this section, including reimbursement or payment for services and facilities of the Federal National Mortgage Association and of any public or private agency for the servicing of such loans.

Subsec. (h). Pub. L. 89–117, § 312(c), added subsec. (h).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 807(b) of Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as a note under section 1716b of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1460 of this title; title 12 section 1701z–4.

§ 1453. Grants for urban renewal projects.

(a) Authorization; aggregate amount; limitation on grants for individual projects.

(1) The Secretary may make capital grants to local public agencies in accordance with the provisions of this subchapter for urban renewal projects: *Provided,* That the Secretary shall not make any contract for capital grant with respect to a project which consists of open land (other than land within the purview of section 1460(c)(1)(v) of this title), except that he may contract for a grant in an amount not to exceed two-thirds of the difference between the proceeds from any land disposed of pursuant to section 1457 of this title and the fair value of the land without regard to such section.

(2) The aggregate of such capital grants with respect to all of the projects of a local public agency (or of two or more local public agencies in the same municipality) on which contracts for capital grants have been made under this subchapter shall not exceed the total of—

(A) two-thirds of the aggregate net project costs of all such projects to which neither subparagraph (B) nor subparagraph (C) applies, and

(B) three-fourths of the aggregate net project costs of any such projects which are located in (i) a municipality having a population of fifty thousand or less according to the most recent decennial census, or (ii) a municipality situated in a labor market area which, at the time the contract or contracts involved are entered into or at such earlier time as the Secretary may specify in order to avoid hardship, or at any time after such contract or contracts are entered into and prior to the time the final grant payment has been made pursuant thereto, is designated as a redevelopment area under the second sentence of section 2504(a) of this title or any other legislation enacted after August 10, 1965, containing standards for designation as a redevelopment area generally comparable to those set forth in the second sentence of section 2504(a) of this title, and

(C) three-fourths of the aggregate net project costs of any of such projects (not falling within subparagraph (B)) which the Secretary, upon request, may approve on a three-fourths capital grant basis.

(3) A capital grant with respect to any individual project shall not exceed the difference between the net project cost and the local grants-in-aid actually made with respect to the project.

(b) Limitation on aggregate amount of grants; authorization of appropriations; repayment of certain uncollectible loans.

The Secretary may, with the approval of the President, contract to make grants under this subchapter aggregating not to exceed $7,600,000,000, which amount shall be increased by $1,400,000,000 on July 1, 1969, by $1,700,000,000 on July 1, 1970, and by $1,500,000,000 on July 1, 1971. Not less than 35 per centum of the amounts available to the Secretary for grants under this subchapter during each of the fiscal years commencing after June 30, 1969 and ending prior to July 1, 1974, shall be for grants under part B. In addition to the authority to make grants provided in the first sentence of this subsection, the Secretary may contract to make grants under this subchapter, on or after July 1, 1967, in an amount not to exceed $600,000,000: *Provided,* That the authority to contract to make grants provided by this sentence shall be exercised only with respect to an urban renewal project which is identified and scheduled to be carried out as one of the projects or activities included within an approved comprehensive city demonstration program assisted under the provisions of section 3305(c) of this title. Such grants shall not be used for major long-term capital improvement; shall not exceed two-thirds of the cost, as determined or estimated by the Secretary, of the project for which the grant is made; and shall be subject to such other terms and conditions as he may prescribe. The Secretary is authorized, notwithstanding the provisions of section 529 of Title 31, to make advance or progress payments on account of any grant contracted to be made pursuant to this section. The faith of the United States is solemnly pledged to the payment of all grants contracted for under this subchapter, and there are authorized to be appropriated out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments: *Provided,* That any amounts so appropriated shall

also be available for repaying to the Secretary of the Treasury, for application to notes of the Secretary, the principal amounts of any funds advanced to local public agencies under this subchapter which the Secretary determines to be uncollectible because of the termination of activities for which such advances were made, together with the interest paid or accrued to the Secretary of the Treasury (as determined by him) attributable to notes given by the Secretary in connection with such advances, but all such repayments shall constitute a charge against the authorization to make contracts for grants contained in this section: *Provided further,* That no such determination of the Secretary shall be construed to prejudice the rights of the United States with respect to any such advance.

(c) Restriction on financial assistance to localities or local public agencies.

Notwithstanding any other provision of this or any other Act, if financial assistance authorized by this subchapter to be made available to a locality or local public agency may be made available to any locality or local public agency within the limitations provided in subsection (b) of this section and sections 1452(e) and 1456(e) of this title, and the second paragraph following the paragraph numbered (6) of section 1460(c) of this title, the amount of such financial assistance made available to any locality or local public agency upon submission and processing of proper application therefor shall not otherwise be restricted except on the basis of (1) urgency of need, and (2) feasibility, as determined by the Secretary.

(d) Grants for preparation or completion of community renewal programs; requirements; approval by governing body; submission of application; limitation on amount of grants.

The Secretary may contract to make grants for the preparation or completion of community renewal programs, which may include, without being limited to, (1) the identification of slum areas or blighted, deteriorated, or deteriorating areas in the community, (2) the measurement of the nature and degree of blight and blighting factors within such areas, (3) determination of the financial, relocation, and other resources needed and available to renew such areas, (4) the identification of potential project areas and, where feasible, types of urban renewal action contemplated within such areas, and (5) scheduling or programing of urban renewal activities. Such programs shall conform, in the detertmination of the governing body of the locality, to the general plan of the locality as a whole. The Secretary may establish reasonable requirements respecting the scope and content of such programs. No contract for a grant pursuant to this subsection shall be made unless the governing body of the locality involved has approved the preparation or completion of the community renewal program and the submission by the local public agency of an application for such a grant. Notwithstanding section 1460(h) of this title or the use in any other provision of this subchapter of the term "local public agency" or "local public agencies", the Secretary may make grants pursuant to this subsection for the preparation or completion of a community renewal program to a single local public body authorized to perform the planning work necessary to such preparation or completion. No grant made pursuant to this subsection shall exceed two-thirds of the cost (as such cost is determined or estimated by the Secretary) of the preparation or completion of the community renewal program for which such grant is made. (July 15, 1949, ch. 338, title I, § 103, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, § 305, 68 Stat. 625; Aug. 11, 1955, ch. 783, title I, § 106(a), 69 Stat. 637; July 12, 1957, Pub. L. 85–104, title III, §§ 301, 302(1), 71 Stat. 299; Sept. 23, 1959, Pub. L. 86–372, title IV, §§ 405, 417(1), 73 Stat. 672, 676; June 30, 1961, Pub. L. 87–70, title III, §§ 301(a), 303, 75 Stat. 165, 166; Sept. 2, 1964, Pub. L. 88–560, title III, § 304, 78 Stat. 785; Aug. 10, 1965, Pub. L. 89–117, title III, §§ 304, 313(a), 79 Stat. 475, 479; Nov. 3, 1966, Pub. L. 89–754, title I, § 113, title VII, § 704, 80 Stat. 1260, 1281; May 25, 1967, Pub. L. 90–19, § 6(b), (d), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §§ 502, 506, 82 Stat. 521, 522; Dec. 24, 1969, Pub. L. 91–152, title II, § 201, 83 Stat. 385; Dec. 31, 1970, Pub. L. 91–609, title II, § 201, title VII, § 741(a), 84 Stat. 1776, 1805.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (c), refers to the Housing Act of 1949, act July 15, 1949. For distribution of that act in this Code, see reference in text note under section 1441 of this title.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–609, § 741(a), inserted in proviso after "open land" the words "(other than land within the purview of section 1460(c)(1)(v) of this title),".

Subsec. (b). Pub. L. 91–609, § 201, added the provision authorizing an increase by $1,500,000,000 on July 1, 1971, and substituted in second sentence "commencing after June 30, 1969 and ending prior to July 1, 1974" for "beginning July 1, 1969, and July 1, 1970".

1969—Subsec. (b). Pub. L. 91–152 added the provisions authorizing an increase by $1,700,000,000 on July 1, 1970 and requiring that no less than 35 per centum of the amounts available to the Secretary for grants under this subchapter during each of the fiscal years beginning July 1, 1969, and July 1, 1970, be for grants under part B.

1968—Subsec. (a)(1). Pub. L. 90–448, § 506, empowered the Secretary to contract for a grant in an amount not to exceed two-thirds of the difference between the proceeds from any land disposed of pursuant to section 1457 of this title and the fair value of the land without regard to such section.

Subsec. (b). Pub. L. 90–448, § 502, authorized an increase in the aggregate amount of grants by $1,400,000,000 on July 1, 1969, and increased the authority to make grants on or after July 1, 1967, from $250,000,000 to $600,000,000.

1967—Pub. L. 90–19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)(1), (2)(B), (C) and (b)—(d) of this section.

Subsec. (b). Pub. L. 90–19, § 6(d), substituted "Secretary of the Treasury" for "Secretary" in the last sentence.

1966—Subsec. (a)(2)(B). Pub. L. 89–754, § 704, inserted "or at any time after such contract or contracts are entered into and prior to the time the final grant payment has been made pursuant thereto," following "to avoid hardships,".

Subsec. (b). Pub. L. 89–754, § 113, provided for grant authority, in an amount not to exceed $250,000,000, for urban renewal projects which are part of approved comprehensive city demonstration programs.

1965—Subsec. (a)(2)(B). Pub. L. 89–117, § 313(a), inserted "(i)" following "located in", deleted "(one hundred fifty thousand or less in the case of a municipality situated in an area which, at the time the contract or contracts involved are entered into or at such earlier time

as the Administrator may specify in order to avoid hardship, is designated as a redevelopment area under the second sentence of section 2504(a) of this title)" preceding "according to the latest", and added cl. (ii).

Subsec. (b). Pub. L. 89–117, § 304, substituted "$4,700,000,000, which amount shall be increased by $675,000,000 on August 10, 1965, by $725,000,000 on July 1, 1966, and by $750,000,000 on July 1 in each of the years 1967 and 1968" for "$4,725,000,000", and deleted the proviso in the first sentence which prescribed the maximum aggregate amount available to make grants for mass transportation demonstration projects.

1964—Subsec. (b). Pub. L 88–560 substituted "$4,725,000,000" for "$4,000,000,000."

1961—Subsec. (a). Pub. L. 87–70, § 301(a), designated existing provisions as par. (1), eliminated therein provisions which limited the aggregate of capital grants with respect to all the projects of a local public agency on which contracts for capital grants have been made under this subchapter to not more than two-thirds of the aggregate of the net project costs of nonexcluded projects, which permitted the aggregate of the capital grants to exceed two-thirds but not three-fourths of the aggregate net project costs of those projects which the Administrator might approve on such a three-fourths capital grant basis, and which provided that a capital grant with respect to any individual project shall not exceed the difference between the net project cost and the local grants-in-aid actually made with respect to the project, and added pars. (2) and (3).

Subsec. (b). Pub. L. 87–70, § 303, increased the contract authorization from $2,000,000,000 to $4,000,000,000, empowered the Administrator to contract to make grants aggregating not more than $25,000,000 for mass transportation demonstration projects, prohibited the use of such grants for major long-term capital improvements, limited the grants to not more than two-thirds of the cost of the project, and permitted the Administrator to make advance or progress payments.

1959—Subsec. (b). Pub. L. 86–372, §§ 405 (1), (2), 417(1), increased the grant authorization by $350,000,000 on September 23, 1959, and by $300,000,000 on July 1, 1960, and provided that the appropriated funds shall also be available for repaying to the Secretary of the Treasury, for application to notes of the Administrator, the principal amounts of any funds advanced to local public agencies under this subchapter which the Administrator determines to be uncollectible because of the termination of activities for which such advances were made, together with the interest paid or accrued to the Secretary attributable to notes given by the Administrator in connection with such advances.

Subsecs. (c) and (d). Pub. L. 86–372, § 405(3), added subsecs. (c) and (d).

1957—Subsec. (a). Pub. L. 85–104, § 302(1), provided that capital grants may exceed two-thirds but not three-fourths of the aggregate net costs of projects which the Administrator, at the request of local public agency, approves on such basis.

Subsec. (b). Pub. L. 85–104, § 301, substituted "$900,000,000, which limit shall be increased by $350,000,000 on July 12, 1957" for "$500,000,000, which limit shall be increased by further amounts of $200,000,000 on July 1 in each of the years 1955 and 1956, respectively".

1955—Subsec. (b). Act Aug. 11, 1955, authorized $200,000,000 on July 1, 1955 and July 1, 1956, for capital grants for slum clearance and urban renewal.

1954—Subsec. (a). Act Aug. 2, 1954, in the matter preceding the proviso, substituted "in accordance with the provisions of this subchapter for urban renewal projects" for "to enable such agencies to make land in project areas available for redevelopment at its fair value for the uses specified in the redevelopment plans".

EFFECTIVE DATE OF 1965 AMENDMENT TO SUBSEC. (a)(2)(B)

Section 313(b) of Pub. L. 89–117, as amended by Pub. L. 90–19, § 22(a), May 25, 1967, 81 Stat. 26, provided that: "The amendment made by subsection (a) [amending subsec. (a)(2)(B) of this section] shall apply only with respect to urban renewal projects placed under contract for capital grant on or after the date of the enactment of this Act [Aug. 10, 1965], except that such amendment shall apply with respect to all urban renewal projects in the city of Providence, Rhode Island, placed under contract for capital grant during the period Providence was designated as a redevelopment area under section 5(a) of the Area Redevelopment Act [section 2504(a) of this title] (or at such earlier time as the Secretary may specify in order to avoid hardship) and not completed prior to the date of the enactment of this Act [Aug. 10, 1965]."

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b) of this section delegated to the Housing and Home Finance Administrator, see section 1(3) of Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

DEVELOPMENT OF INNER CITY AREAS; STATEMENT OF PURPOSE

Section 740 of Pub. L. 91–609 provided that: "It is the purpose of this part [amending subsec. (a)(1) of this section and section 1460 (c)(7) of this title and enacting this provision] to provide our cities, which urgently need to augment their inventories of housing (particularly housing for low and moderate income families) and to find sites for essential public facilities and additional sources of employment, but have virtually no vacant land upon which to build, with a program which will make possible the more rational use of urban land and space that is currently occupied by industrial or commercial uses which though not physically blighted are functionally obsolete or uneconomic, or of land and space that is not usable in its present state because of natural hazards or inadequate development, so that in appropriate cases major rebuilding projects (including new communities in town) may be undertaken without major residential clearance activities and with minimal displacement."

CRITERIA FOR GRANTS FOR HISTORIC PRESERVATION

Criteria for grants for historic preservation under urban renewal program commencing three years after Nov. 3, 1966, and comparable to those used in establishment of the National Register, see section 605(h) of Pub. L. 89–754, set out as a note under section 1500d–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1450, 1451, 1452a, 1456, 1460, 1466, 1467, 1468, 1468a, 1469a, 1469c of this title.

§ 1454. Requirements for local grants-in-aid.

Every contract for capital grants under this subchapter shall require local grants-in-aid in connection with the project involved. Such local grants-in-aid, together with the local grants-in-aid to be provided in connection with all other projects of the local public agency (or two or more local public agencies in the same municipality) on which contracts for capital grants have theretofore been made, shall be at least equal to the total of one-third of the aggregate net project costs of such projects undertaken on a two-thirds capital grant basis and one-fourth of the aggregate net project

costs of such projects undertaken on a three-fourths capital grant basis. (July 15, 1949, ch. 338, title I, § 104, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, § 306, 68 Stat. 625; Aug. 7, 1956, ch. 1029, title III, § 306, 70 Stat. 1101; July 12, 1957, Pub. L. 85-104, title III, § 302(2), 71 Stat. 300; June 30, 1961, Pub. L. 87-70, title III, § 301(b), 75 Stat. 166.)

AMENDMENTS

1961—Pub. L. 87-70 inserted the parenthetical phrase "(or two or more local public agencies in the same municipality)" and substituted "shall be at least equal to the total of one-third of the aggregate net project costs of such projects undertaken on a two-thirds capital grant basis and one-fourth of the aggregate net project costs of such projects undertaken on a three-fourths capital grant basis" for "shall not be required in excess of one-third of the aggregate net project costs of all projects of the local public agency on which contracts for capital grants have been made on the two-thirds basis, or in excess of one-fourth of the aggregate net project costs of all projects of the local public agency on which contracts for capital grants have been made on the three-fourths basis."

1957—Pub. L. 85-104 inserted "on the two-thirds basis, or in excess of one-fourth of the aggregate net project costs of all projects of the local public agency on which contracts for capital grants have been made on the three-fourths basis."

1956—Act Aug. 7, 1956, stated provisions that local governments are not required to pay in excess of one-third of net project costs.

1954—Act Aug. 2, 1954, substituted "of the property" for "of land" before "in such projects".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1469b of this title.

§ 1455. Requirements for loan- or capital-grant contracts.

Contracts for loans or capital grants shall be made only with a duly authorized local public agency and shall require that—

(a) Approval of urban renewal plan.

The urban renewal plan for the urban renewal area be approved by the governing body of the locality in which the project is situated, and that such approval include findings by the governing body that (i) the financial aid to be provided in the contract is necessary to enable the project to be undertaken in accordance with the urban renewal plan; (ii) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the locality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (iii) the urban renewal plan conforms to a general plan for the development of the locality as a whole; and (iv) the urban renewal plan gives due consideration to the provision of adequate park and recreational areas and facilities, as may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plan;

(b) Obligations of purchasers, lessees, and assignees of property; and Federal agencies.

When real property acquired or held by the local public agency in connection with the project is sold or leased, the purchasers or lessees and their assignees shall be obligated (i) to devote such property to the uses specified in the urban renewal plan for the project area; (ii) to begin within a reasonable time any improvements on such property required by the urban renewal plan; and (iii) to comply with such other conditions as the Secretary finds, prior to the execution of the contract for loan or capital grant pursuant to this subchapter, are necessary to carry out the purposes of this subchapter: *Provided,* That clause (ii) of this subsection shall not apply to mortgagees and others who acquire an interest in such property as the result of the enforcement of any lien or claim thereon: *And provided further,* That, with respect to any improvements of a type which it is otherwise authorized to undertake, any Federal agency (as defined in section 472(b) of Title 40, and also including the District of Columbia or any agency thereof) is authorized to become obligated in accordance with this subsection, except that clause (ii) of this subsection shall apply to such Federal agency only to the extent that it is authorized (and funds have been made available) to make the improvements involved;

(c) Temporary relocation of individuals and families displaced from urban renewal area; relocation assistance program; review of relocation plan.

(1) There shall be a feasible method for the temporary relocation of individuals and families displaced from the urban renewal area, and there are or are being provided, in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the individuals and families displaced from the urban renewal area, decent, safe, and sanitary dwellings equal in number to the number of and available to such displaced individuals and families and reasonably accessible to their places of employment. The Secretary shall issue rules and regulations to aid in implementing the requirements of this subsection and in otherwise achieving the objectives of this subchapter. Such rules and regulations shall require that there be established, at the earliest practicable time, for each urban renewal project involving the displacement of individuals, families, and business concerns occupying property in the urban renewal area, a relocation assistance program which shall include such measures, facilities, and services as may be necessary or appropriate in order (A) to determine the needs of such individuals, families, and business concerns for relocation assistance; (B) to provide information and assistance to aid in relocation and otherwise minimize the hardships of displacement, including information as to real estate agencies, brokers, and boards in or near the urban renewal area which deal in residential or business property that might be appropriate for the relocating of displaced individuals, families, and business concerns; and (C) to assure the necessary coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community which may affect the carrying out of the relocation program, particularly planned or proposed low-rent housing projects to be constructed in or near the urban renewal area.

(2) As a condition to further assistance after August 10, 1965, with respect to each urban renewal project involving the displacement of individuals

and families, the Secretary shall require, within a reasonable time prior to actual displacement, satisfactory assurance by the local public agency that decent, safe, and sanitary dwellings as required by the first sentence of this subsection are available for the relocation of each such individual or family.

(3) Within one year after December 24, 1969, and every two years thereafter, the Secretary shall review each locality's relocation plan under this subsection and its effectiveness in carrying out such plan.

(d) Acquisition of land; public hearings.

No land for any project to be assisted under this subchapter shall be acquired by the local public agency except after public hearing following notice of the date, time, place, and purpose of such hearing.

(e) Public disclosure by redevelopers.

No understanding with respect to, or contract for, the disposition of land within an urban renewal area shall be entered into by a local public agency unless the local public agency shall have first made public, in such form and manner as may be prescribed by the Secretary, (1) the name of the redeveloper, together with the names of its officers and principal members, shareholders and investors, and other interested parties, (2) the redeveloper's estimate of the cost of any residential redevelopment and rehabilitation, and (3) the redeveloper's estimate of rentals and sales prices of any proposed housing involved in such redevelopment and rehabilitation: *Provided,* That nothing in this subsection shall constitute a basis for contesting the conveyance of, or title to, such land.

(f) Standard housing units for low and moderate income families or individuals; minimum number of units in projects; waiver of minimum number requirement; report to Congressional Committees.

A majority of the housing units provided in each community's total of such approved urban renewal projects as will be redeveloped for predominantly residential uses and which receive Federal recognition after August 1, 1968, shall be standard housing units for low and moderate income families or individuals: *Provided,* That the units in each community's total of such approved urban renewal projects which are for low-income families or individuals shall constitute at least 20 per centum of the units in such projects, except that the Secretary may waive the requirement of this proviso in any community to the extent that units for low-income families and individuals are not needed. The Secretary shall promptly report any waiver under the proviso in the preceding sentence to the Committees on Banking and Currency of the Senate and the House of Representatives.

(g) Sewer systems in urban renewal areas.

Consideration has been given to development of a sewer system to serve the urban renewal area which will, to the maximum extent feasible, provide for effective control of storm and sanitary wastes.

(h) Demolition or removal of residential structures in urban renewal projects; replacement with standard housing units; number of units; waiver of provisions.

If any urban renewal project which receives Federal recognition after December 24, 1969 includes the demolition or removal of any residential structure or structures (whether or not it is a project taken into account for purposes of applying subsection (f) of this section), there shall be provided in the area within which the local public agency has jurisdiction (by construction or rehabilitation) standard housing units for occupancy by low and moderate income families (including but not limited to units provided under Federal- or State-assisted housing programs and including units of low-rent housing in private accommodations assisted under section 1421b of this title) at least equal in number to the number of units occupied by such families prior to the demolition or removal of such structure or structures: *Provided,* That the Secretary shall have authority where he deems it appropriate to take into account suitable housing outside such area for purposes of meeting the requirement of this subsection. If the Secretary finds that the percentage of vacancies for all existing housing units in the area within which the local public agency has jurisdiction is 5 per centum or greater, he may waive the requirements of this subsection to the extent that he determines there are existing standard housing units in such area which will be available for occupancy by low and moderate income families who are being displaced by the urban renewal project. (July 15, 1949, ch. 338, title I, § 105, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III; § 307, 68 Stat. 625; Aug. 7, 1956, ch. 1029, title III, § 302(a)(1), 70 Stat. 1097; Sept. 23, 1959, Pub. L. 86–372, title IV, §§ 406, 407, 73 Stat. 673; June 30, 1961, Pub. L. 87–70, title III, § 315, 75 Stat. 172; Sept. 2, 1964, Pub. L. 88–560, title III, § 305(a)(1), (b), 78 Stat. 786; Aug. 10, 1965, Pub. L. 89–117, title III, § 305(a), 79 Stat. 475; Nov. 3, 1966. Pub. L. 89–754, title VII, §§ 703(a), 706, 80 Stat. 1281; May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 512, 82 Stat. 524; Dec. 24, 1969, Pub. L. 91–152, title II, §§ 209, 210, 83 Stat. 388.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–152, § 209, added par. (3).

Subsec. (h). Pub. L. 91–152, § 210, added subsec. (h).

1968—Subsec. (f). Pub. L. 90–448 substituted provisions requiring a majority of the housing units provided in each community's total of approved projects as will be redeveloped for predominantly residential uses and which receive Federal recognition after August 1, 1968, to be standard housing units for low and moderate income families or individuals, directing that at least 20 per centum of the units shall be for low-income families or individuals, empowering the Secretary to waive the 20 per centum requirement in communities to the extent that units are not needed, and mandating the Secretary to report any such waiver, for provisions which stated that the redevelopment of an urban renewal area, unless for predominantly nonresidential uses, will provide a substantial number of units of standard housing of low and moderate cost and result in marked progress in serving the poor and disadvantaged people living in slum and blighted areas.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (b), (c)(1), (2), and (e) of this section.

1966—Subsec. (f). Pub. L. 89–754, § 703(a), added subsec. (f).

Subsec. (g). Pub. L. 89–754, § 706, added subsec. (g).

1965—Subsec. (c). Pub. L. 89–117 designated existing provisions as par. (1), inserted "including information as to real estate agencies, brokers, and boards in or near the urban renewal area which deal in residential or business property that might be appropriate for the relocating of displaced individuals, families, and business

concerns" in cl. (B), inserted "particularly planned or proposed low-rent housing projects to be constructed in or near the urban renewal area" in cl. (C), and added par. (2).

1964—Subsec. (c). Pub. L. 88-560, § 305(a)(1), (b), substituted "individuals and families" for "families" wherever appearing, and provided that the Administrator shall require a relocation assistance program for each urban renewal project involving displacement of families, individuals and business concerns, to determine needs for assistance, provide information to minimize hardships, and to assure coordination of relocation activities with other project activities and governmental actions which may affect the relocation program.

1961—Subsec. (a). Pub. L. 87-70 inserted cl. (iv).

1959—Subsec. (b). Pub. L. 86-372, § 406, inserted proviso authorizing Federal agencies, with respect to any improvements of a type which they are otherwise authorized to undertake, to become obligated in accordance with this subsection.

Subsec. (e). Pub. L. 86-372, § 407, added subsec. (e).

1956—Subsec. (a). Act Aug. 7, 1956, eliminated "(including any redevelopment plan constituting a part thereof)" following the words "The urban renewal plan".

1954—Opening clause. Act Aug. 2, 1954, § 307(1), substituted "Contracts for loans or capital grants" for "Contracts for financial aid" in the opening clause.

Subsecs. (a) and (b). Act Aug. 2, 1954, § 307(2), substituted references to "urban renewal plan" for "redevelopment plan" in certain places, thus embracing the additional rehabilitation and conservation activities authorized by this subchapter as amended by such act.

Subsec. (c). Act Aug. 2, 1954, § 307 (3), (4), substituted "urban renewal" for "project" wherever the latter term appeared, and struck out the proviso which restricted the demolition of residential structures with respect to contracts entered into prior to July 1, 1951, "in view of the existing acute housing shortage".

EFFECTIVE DATE OF 1966 AMENDMENT

Section 703(b) of Pub. L. 89-754 provided that: "The amendment made by subsection (a) [adding subsec. (f) of this section] shall apply only in the case of contracts for loans or capital grants which are made with respect to urban renewal projects undertaken pursuant to urban renewal plans approved after the date of the enactment of this Act [Nov. 3, 1966]."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 305(c) of Pub. L. 89-117 provided that: "The requirements imposed by the amendment made by subsection (a) of this section [amending subsec. (c) of this section] shall not be applicable to any project which received Federal recognition prior to the date of the enactment of this Act [Aug. 10, 1965]."

RELOCATION OF DISPLACED INDIVIDUALS

Section 305(a)(2) of Pub. L. 88-560 provided that: "The requirement imposed by the amendments made by paragraph (1) [which substituted "individuals and families" for "families" wherever appearing in subsec. (c)] shall not be applicable to any project receiving Federal recognition prior to the date of the enactment of this Act [Sept. 2, 1964]."

CROSS REFERENCES

"Public hearing" requirements of subsection (d) of this section as not applicable to disaster areas, see section 1462 of this title.

"Relocation" requirements of subsection (c) of this section not applicable to disaster areas, see section 1462 of this title.

Urban renewal plan, requirement of conformance to a general plan of the locality not applicable to disaster areas, see section 1462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1462, 1464, 1469c of this title.

§ 1455a. Submission of specifications by applicants.

Every contract for a loan, grant, or contribution under this subchapter, for the construction of a project shall require the submission of specifications with respect to such construction prior to the authorization for the award of the construction contract and the submission of data with respect to the acquisition of land prior to the authorization to acquire such land. (Aug. 2, 1954, ch. 649, title VIII, § 815, 68 Stat. 647.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the Housing Act of 1949, which comprises this chapter. In so far as section 815 of the Housing Act of 1954 (act Aug. 2, 1954) related to the United States Housing Act of 1937, it is set out as section 1411d of this title.

§ 1456. Secretary's powers and duties.

(a) Preparation and submission of annual budget; maintenance and audit of accounts.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended;

(2) maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act, as amended, and no other audit shall be required: *Provided,* That such financial transactions of the Secretary as the making of advances of funds, loans, or grants and vouchers approved by the Secretary in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Deposit of funds; use of assets and receipts.

Funds made available to the Secretary pursuant to the provisions of this subchapter shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of his functions under this subchapter shall be available for any of the purposes of this subchapter (except for grants pursuant to section 1453 of this title), and all funds available for carrying out the functions of the Secretary under this subchapter (including appropriations therefor, which are authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions: *Provided,* That necessary expenses of inspections and audits, and of providing representatives at the site, of projects being planned or undertaken by local public agencies pursuant to this subchapter shall be compensated by such agencies by the payment of fixed fees which in the aggregate will cover the costs of rendering such services, and such expenses shall be considered nonadministrative; and for the purpose of providing such inspections and audits and of providing representatives at the sites, the Secretary may utilize any agency and such agency may accept reimbursement or payment for such services from such local public agencies or the

Secretary, and credit such amounts to the appropriations or funds against which such charges have been made.

(c) Specific powers, duties, and liabilities.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary, notwithstanding the provisions of any other law, may—

(1) sue and be sued;

(2) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any project or part thereof in connection with which he has made a loan or capital grant pursuant to this subchapter. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, dispose of, and otherwise deal with, such project or part thereof: *Provided,* That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(3) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned, and such sums shall approximate the taxes which would be paid upon such property to the State or local taxing authority, as the case may be, if such property were not exempt from taxation;

(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(5) obtain insurance against loss in connection with property and other assets held;

(6) subject to the specific limitations in this subchapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of grant, or any other term, of any contract or agreement to which he is a party or which has been transferred to him pursuant to this subchapter;

(7) include in any contract or instrument made pursuant to this subchapter such other covenants, conditions, or provisions (including such covenants, conditions, or provisions as, in the determination of the Secretary, are necessary or desirable to prevent the payment of excessive prices for the acquisition of land in connection with projects assisted under this subchapter) as he may deem necessary to assure that the purposes of this subchapter will be achieved. No provision of this subchapter shall be construed or administered to permit speculation in land holding; and

(8) make advance or progress payments on account of any grant contracted to be made pursuant to this subchapter, notwithstanding the provisions of section 529 of Title 31, or any other provisions of this subchapter.

(d) Repealed. Pub. L. 89-754, title X, § 1020(a), Nov. 3, 1966, 80 Stat. 1295.

(e) Limitation on expenditures within one State.

Not more than 12½ per centum of the grant funds provided for in this subchapter shall be expended in any one State: *Provided,* That the Secretary, without regard to such limitation, may enter into contracts for grants aggregating not to exceed $100,000,000 (subject to the total authorization provided in section 1453(b) of this title) with local public agencies in States where more than two-thirds of the maximum grants permitted in the respective State under this subsection has been obligated.

(f) Repealed. Pub. L. 88-560, title III, § 310(c), Sept. 2, 1964, 78 Stat. 790.

(g) Construction of hotels and other transient housing.

No provision permitting the new construction of hotels or other housing for transient use in the redevelopment of any urban renewal area under this subchapter shall be included in the urban renewal plan unless the community in which the project is located, under regulations prescribed by the Secretary, has caused to be made a competent independent analysis of the local supply of transient housing and as a result thereof has determined that there exists in the area a need for additional units of such housing.

(h) Redevelopment in accordance with urban renewal plan.

Notwithstanding any other provision of this subchapter, no contract shall be entered into for any loan or capital grant under this subchapter with any local public agency establishes, by evidence satisfactory to the Secretary, that any urban renewal project with respect to which such local public agency has received a loan or capital grant under this subchapter has been, or will be, undertaken and carried out in substantial accordance with the urban renewal plan, and any amendments thereto, approved with respect to such project, and the terms of the contract for loan or capital grant covering such project.

(i) Early closeout of urban renewal projects; project completion prior to disposition of certain property; additional grant based on estimated disposition proceeds; approval of disposition; payment of net proceeds to Secretary.

Upon determination of the Secretary that the local public agency does not expect to be able in the reasonably near future, due to circumstances beyond its control, to dispose of urban renewal project land acquired in accordance with the urban renewal plan and that all other project activities are completed except local grant-in-aid activities designated in the third proviso to section 1460(d) of this title under

the conditions specified therein, and that a closeout of the urban renewal project pursuant to this subsection would be in the financial interest of the Federal Government, the urban renewal project may be deemed completed, net project cost may be computed, and the capital grant paid. To facilitate these actions, the Secretary may pay to the local public agency a grant, in addition to the capital grant otherwise payable, equal to one-third (or one-fourth in the case of projects funded on the three-fourths capital grant basis) of the estimated disposition proceeds of such land as accepted by the Secretary. No local grant-in-aid shall be required on account of this additional grant. The approval of the Secretary shall be obtained prior to the disposition of such land by the local public agency and net proceeds realized from the disposition of such land after project closeout shall be paid to the Secretary by the local public agency. (July 15, 1949, ch. 338, title I, § 106, 63 Stat. 417; June 3, 1952, ch. 362, 66 Stat. 98; June 30, 1953, ch. 170, § 22, 67 Stat. 127; Aug. 2, 1954, ch. 649, title III, § 308, title VIII, § 802(e), 68 Stat. 625, 643; Aug. 11, 1955, ch. 783, title I, § 106(b), 69 Stat. 637; Aug. 7, 1956, ch. 1029, title III, § 304, 305, 70 Stat. 1100; July 12, 1957, Pub. L. 85–104, title III, §§ 303, 304, 71 Stat. 300; Sept. 23, 1959, Pub. L. 86–372, title IV, §§ 408, 409(a)(1), (b), 410, 417(1), 73 Stat. 673, 674, 676; June 30, 1961, Pub. L. 87–70, title III, § 304, 75 Stat. 167; Sept. 2, 1964, Pub. L. 88–560, title III, § 310(c), 78 Stat. 790; Aug. 10, 1965, Pub. L. 89–117, title III, § 306, 79 Stat. 476; Nov. 3, 1966, Pub. L. 89–754, title X, §1020(a), 80 Stat. 1295; May 25, 1967, Pub. L. 90–19, § 6(b), (e), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 508(a), 82 Stat. 522; Dec. 31, 1970, Pub. L. 91–609, title II, § 213(a), 84 Stat. 1779.)

REFERENCES IN TEXT

The Government Corporation Control Act, as amended, referred to in subsection (a) (2), (3), is classified to chapter 14 of Title 31, Money and Finance.

AMENDMENTS

1970—Subsec. (i). Pub. L. 91–609 deleted provision respecting a determination that not more than 5 per centum of the total area of land acquired as part of an urban renewal project remains to be disposed of and that the local public agency has agreed to dispose of or retain the land for uses in accordance with the urban renewal plan, provided for early closeout of such urban renewal projects, required disposition in the "reasonably" near future, excepted local grant-in-aid activities designated in third proviso to section 1460(d) of this title under the conditions specified therein, provided for addition grant based on estimated disposition proceeds, required approval of Secretary for disposition of land, and payment of net proceeds to Secretary.

1968—Subsec. (i). Pub. L. 90–448 added subsec. (i).

1967—Pub. L. 90–19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)—(c), (c)(2), (7), (e), (g), and (h) of this section.

Subsec. (a)(1)—(3). Pub. L. 90–19, § 6(e), struck out former par. (1) authorization for appointment of a Director to administer the provisions of this Subchapter and to be compensated at rate established for heads of constituent agencies of the Housing and Home Finance Agency and redesignated former pars. (2) and (3) as (1) and (2), respectively.

1966—Subsec. (d). Pub. L. 89–754 repealed requirement that urban renewal contracts which exceed $1,000 may be made only after advertising for bids, now covered by section 5 of Title 41, Public Contracts.

1965—Subsec. (h). Pub. L. 89–117 added subsec. (h).

1964—Subsec. (f). Pub. L. 88–560 deleted subsec. (f) which related to relocation payments and to contract provisions.

1961—Subsec. (f)(2). Pub. L. 87–70 included payments to nonprofit orgainizations, substituted "$3,000 (or, if greater, the total certified actual moving expenses) in the case of a business concern or nonprofit organization" for "$3,000 in the case of a business concern", and inserted words "and actual direct losses of property" following "necessary moving expenses."

1959—Subsec. (a)(3). Pub. L. 86–372, § 417(1), substituted "or grants and vouchers" for "or capital grants and vouchers."

Subsec. (b). Pub. L. 86–372, § 417(1), substituted "except for grants" for "except for capital grants."

Subsec. (c)(6). Pub. L. 86–372, § 417(1), substituted "amount of grant" for "amount of capital grant."

Subsec. (c)(8). Pub. L. 86–372, § 417(1), substituted "any grant contracted" for "any capital grant contracted."

Subsec. (e). Pub. L. 86–372, §§ 408, 417(1), substituted "Not more than 12½ per centum of the grant funds provided for in this subchapter shall be expended" for "Not more than 12½ per centum of the funds provided for in this subchapter, either in the form of loans or grants, shall be expended", "contracts for grants" for "contracts for capital grants", and "maximum grants" for "maximum capital grants."

Subsec. (f)(2). Pub. L. 86–372, §§ 409(a)(1), (b), substituted provisions defining relocation payments as payments by a local public agency resulting from displacement from an urban renewal area made necessary by the acquisition of real property by a local public agency or by any other public body, by code enforcement activities undertaken in connection with an urban renewal project, or by a program of voluntary rehabilitation of buildings or other improvements in accordance with an urban renewal plan for provisions which defined relocation payments as payments by a local public agency resulting from displacement by an urban renewal project included in an urban renewal area respecting which a contract for capital grant has been executed under this subchapter, inserted proviso prohibiting such payments after completion of the project or if completion is deferred solely for the purpose of obtaining further relocation payments, and increased the maximum payments for individuals and families from $100 to $200 and for business concerns from $2,500 to $3,000.

Subsec. (g). Pub. L. 86–372, § 410, added subsec. (g).

1957—Subsec. (e). Pub. L. 85–104, § 303, substituted "12½ per centum" for "10 per centum".

Subsec. (f)(2). Pub. L. 85–104, § 304, increased maximum business relocation payments from $2,000 to $2,500 and authorized payments to individuals and families of fixed amounts in lieu of their reasonable moving expenses.

1956—Subsec. (e). Act Aug. 7, 1956, § 304, substituted "$100,000,000" for "$70,000,000".

Subsec. (f). Act Aug. 7, 1956, § 305.

1955—Subsec. (e). Act Aug. 11, 1955, increased the limitation on contracts for capital grants from $35,000,000, to $70,000,000.

1954—Act Aug. 2, 1954, § 802(e), repealed former subsec. (a)(4), which related to submission of annual reports to the President and Congress. See section 1701(o) of Title 12, Banks and Banking.

Subsec. (b). Act Aug. 2, 1954, § 308, added the proviso relating to necessary expenses of inspections and audits, and to providing representatives at the site, of projects.

1953—Subsec. (e). Act June 30, 1953, added the proviso.

1952—Subsec. (c). Act June 3, 1952, added paragraph (8).

RELOCATION PAYMENTS FOR EXPENSES OR LOSSES INCURRED PRIOR TO SEPT. 23, 1959

Section 409(a)(2) of Pub. L. 86-372 provided that: "No relocation payments under section 106(f) of the Housing Act of 1949 [subsec. (f) of this section] shall be made for expenses or losses incurred prior to the date of the enactment of the Housing Act of 1959 [Sept. 23, 1959], except to the extent that such payments were authorized by such section as it existed prior to such date."

STUDY OF HOUSING AND BUILDING CODES, ZONING, TAX POLICIES, AND DEVELOPMENT STANDARDS

Pub. L. 91-609, title V, § 503(5), Dec. 31, 1970, 84 Stat. 1786, repealed Pub. L. 89-117, Title III, § 301, Aug. 10, 1965, 79 Stat. 474, as amended by Pub. L. 90-19, § 22(a), (d), May 25, 1967, 81 Stat. 26, 27; Pub. L. 90-118, Oct. 31, 1967, 81 Stat. 338, providing for study of housing and building codes, zoning, tax policies, and development standards, effective July 1, 1971.

FEDERAL RULES OF CIVIL PROCEDURE

Capacity to sue or be sued, see rule 17 (b), Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1453, 1460, 1468, 1468a, 1469c of this title; title 12 section 1701z-4.

§ 1457. Property to be used for public housing or housing for low or moderate income families or individuals.

(a) Upon approval of the Secretary and subject to such conditions as he may determine to be in the public interest, any real property held as part of an urban renewal project may be made available to (1) a limited dividend corporation, nonprofit corporation or association, cooperative, or public body or agency or other approved purchaser or lessee, or (2) a purchaser or lessee who would be eligible for a mortgage insured under section 1715*l* (d) (3) or (d) (4), section 1715*l*(h)(1), section 1715z(j)(1), or section 1715z-1 of Title 12, for purchase or lease at fair value for use by such purchaser or lessee in the provision of new or rehabilitated housing for occupancy by families or individuals of low or moderate income: *Provided,* That when property is made available under clause (1) to an approved purchaser or lessee other than a limited dividend corporation, nonprofit corporation or association, cooperative, or public body or agency, the Secretary shall assure that the benefits of this subsection will go to the occupant of the property rather than to such purchaser or lessee.

(b) When it appears in the public interest that real property acquired as part of an urban renewal project should be used in whole or in part for a low-rent housing project assisted under the United States Housing Act of 1937, or under a State or local program found by the Secretary to have the same general purposes as the Federal program under such Act, the property shall be made available to the public housing agency undertaking the low-rent housing project at a price equal to its fair value, as determined in accordance with subsection (a) of this section, and such amount shall be included as part of the development cost of such low-rent housing project: *Provided,* That the local contribution in the form of tax exemption or tax remission required by section 1410(h) of this title, or by analogous provisions in legislation authorizing such State or local program, with respect to the low-rent housing project into which such property was incorporated on or after September 23, 1959, shall (if covered by a contract which, in the determination of the Secretary of Housing and Urban Development, will assure that such local contribution will be made during the entire period that the project is used as low-rent housing within the meaning of such Act, or by provisions found by the Secretary to give equivalent assurance in the case of State or local programs) be accepted as a local grant-in-aid equal in amount, as determined by the Secretary, to one-half (or one-third in the case of an urban renewal project on a three-fourths capital grant basis) of the difference between the cost of such property (including costs of land, clearance, site improvements, and a share, prorated on an area basis, of administrative, interest, and other project costs) and its sales price, and shall be considered a local grant-in-aid furnished in a form other than cash within the meaning of section 1460(d) of this title. (July 15, 1949, ch. 338, title I, § 107, 63 Stat. 419; Aug. 2, 1954, ch. 649, title III, § 309, 68 Stat. 626; Sept. 23, 1959, Pub. L. 86-372, title IV, § 411, 73 Stat. 674; June 30, 1961, Pub. L. 87-70, title III, § 306(a), 75 Stat. 1969; Sept. 2, 1964, Pub. L. 88-560, title III, § 306, 78 Stat. 786; May 25, 1967, Pub. L. 90-19, § 6(b), (f), 81 Stat. 21, 22; Aug. 1, 1968, Pub. L. 90-448, title V, § 505, 82 Stat. 522.)

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in the text, is classified to chapter 8 of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-448 authorized real property to be made available to an approved purchaser or lessee, to a purchaser who would be eligible for a mortgage insured under sections 1715*l*(h)(1), 1715z(j)(1), or 1715z-1 of Title 12, to a lessee who would be eligible for a mortgage insured under sections 1715*l*(d)(3), (4), (h)(1), 1715z(j)(1) or 1715z-1 of Title 12, permitted such housing to be occupied by families or individuals of low income, directed the Secretary to assure that the benefits of this subsection will go to the occupant of the property rather than to such purchaser or lessee when property is made available under clause (1) to an approved purchaser or lessee other than a limited dividend corporation, nonprofit corporation or association, cooperative, or public body or agency, and eliminated provisions which related to new or rehabilitated rental or cooperative housing.

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

Subsec. (b). Pub. L. 90-19, § 6(f), substituted "Secretary of Housing and Urban Development" for "Public Housing Commissioner".

1964—Pub. L. 88-560 provided that property held as part of an urban renewal project may be made available to purchasers eligible for a mortgage insured under section 1715*l* (d)(3) of Title 12, and that the price of property made available to a public housing agency undertaking the construction of a low-rent housing project shall be equal to its fair value as determined in accordance with subsec. (a) of this section, and eliminated provisions setting the price of the site to be made avail-

able to the public housing agency undertaking the low-rent housing project equal to the fair value of land to a private redeveloper who wants a site in the community for private rental housing with physical characteristics similar to those of the low-rent project and including such amount as part of the development cost of the low-rent project.

1961—Pub. L. 87-70 substituted "Property to be used for public housing or housing for moderate income families" for "Payment for land used in low-rent housing projects" in the section catchline, designated existing provisions as subsec. (a), substituted therein "land acquired as a part of an urban renewal project" for "land to be acquired as a part of an urban renewal project", and "was incorporated on or after September 23, 1959," for "is incorporated", and added subsec. (b).

1959—Pub. L. 86-372 substituted "When it appears in the public interest that land to be acquired as part of an urban renewal project should be used in whole or in part as a site for a low-rent housing project assisted under the United States Housing Act of 1937, as amended, or under a State or local program found by the Administrator to have the same general purposes as the Federal program under such Act, the site shall be made available to the public housing agency undertaking the low-rent housing project at a price equal to the fair value of land to a private redeveloper who wants to buy a site in the community for private rental housing with physical characteristics similar to those of the proposed low-rent housing project" for "If the land for a low-rent housing project assisted under the United States Housing Act of 1937, as amended, is made available from a project assisted under this subchapter, payment equal to the fair value of the land for the uses specified in accordance with the urban renewal plan shall be made therefor by the public housing agency undertaking the housing project", and inserted proviso relating to tax exemption and tax remission.

1954—Act Aug. 2, 1954, substituted "urban renewal plan" for "redevelopment plan."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1453 and 1460 of this title.

§ 1458. Disposition of surplus Federal real property; sale at fair market value; disposition of net proceeds.

The President may at any time in his discretion, transfer, or cause to be transferred, to the Secretary any right, title, or interest held by the Federal Government or any department or agency thereof in any land (including buildings thereon) which is surplus to the needs of the Government and which a local public agency certifies will be within the area of a project being planned by it. When such land is sold to the local public agency by the Secretary, it shall be sold at a price equal to its fair market value, and the net proceeds from such sale shall be covered into the Treasury as miscellaneous receipts. (July 15, 1949, ch. 338, title I, § 108, 63 Stat. 419; May 25, 1967, Pub. L. 90-19, § 6(b), 81 Stat. 21; Dec. 31, 1970, Pub. L. 91-609, title II, § 206, 84 Stat. 1777.)

AMENDMENTS

1970—Pub. L. 91-609 substituted "net proceeds" for "proceeds".

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget], see section 1(21) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Disposition of surplus property, see section 484 of Title 40, Public Buildings, Property, and Works.

Proceeds from transfer, sale, etc. of property, see section 485 of Title 40.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1402 of this title.

§ 1459. Protection of labor standards.

In order to protect labor standards—

(a) any contract for loan or capital grant pursuant to this subchapter shall contain a provision requiring that not less than the salaries prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development of the project involved and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, shall be paid to all laborers and mechanics, except such laborers or mechanics who are employees of municipalities or other local public bodies, employed in the development of the project involved for work financed in whole or in part with funds made available pursuant to this subchapter; and the Secretary shall require certification as to compliance with the provisions of this paragraph prior to making any payment under such contract; and

(b) the provisions of section 874 of Title 18, and of section 276c of Title 40, shall apply to work financed in whole or in part with funds made available for the development of a project pursuant to this subchapter. (July 15, 1949, ch. 338, title I, § 109, 63 Stat. 419; Aug. 2, 1954, ch. 649, title III, § 310, 68 Stat. 626; May 25, 1967; Pub. L. 90-19, § 6(b), 81 Stat. 21.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsection (a), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

1954—Subsec. (a). Act Aug. 2, 1954, made it clear that the labor standards apply only to development work financed in whole or in part with funds under this subchapter, and excepted from the prevailing wage requirements laborers or mechanics who are employees of municipalities or other local public bodies.

Subsec. (b). Act Aug. 2, 1954, substituted "work financed in whole or in part with funds made available for the development of a project pursuant to this subchapter" for "any project financed in whole or in part with funds made available pursuant to this subchapter".

Former subsec. (c). Act Aug. 2, 1954, in a general amendment of the section, omitted former subsec. (c) which required contractors to submit monthly reports to the Secretary of Labor.

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see 1950 Reorg. Plan No. 14, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1460, 3310 of this title.

§ 1460. Definitions.

The following terms shall have the meanings, respectively, ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "Urban renewal area" means a slum area or a blighted, deteriorated, or deteriorating area in the locality involved which the Secretary approves as appropriate for an urban renewal project.

(b) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan of the locality as a whole and to the workable program referred to in section 1451 of this title and shall be consistent with definite local objective respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements; and (2) shall be sufficiently complete to indicate, to the extent required by the Secretary for the making of loans and grants under this subchapter, such lands acquisition, historic and architectural preservation, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, and building requirements.

(c) "Urban renewal project" or "project" may include undertakings and activities of a local public agency in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof, in accordance with such urban renewal plan. Such undertakings and activities may include—

(1) acquisition of (i) a slum area or a deteriorated or deteriorating area, or (ii) land which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community, or (iii) open land necessary for sound community growth which is to be developed for predominantly residential uses, or (iv) air rights in an area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income or, if the area is found by the local public agency to be unsuitable for use for low or moderate income housing, for use for the development of industrial or educational facilities, or (v) land or space which is vacant, unused, underused, or inappropriately used (including infrequently used rail yards and rail storage facilities, and excessive or vacated railroad rights-of-way; air rights over streets, expressways, railroads, waterways, and similar locations; land which is occupied by functionally obsolete nonresidential buildings or is used for low-utility purposes or is covered by shallow water or is subject to periodic flooding or consists of unused or underused slips or dock areas or other waterfront property; which land or space the Secretary determines may be developed (at a cost reasonably related to the public purpose to be served) without major residential clearance activities, and with full consideration to the preservation of beneficial aspects of the urban and natural environment, for such uses as are consistent with emphasis on housing for low- and moderate-income families, including the provision of schools, hospitals, parks, and other essential public facilities, and, where appropriate, all uses associated with new communities in town or similar large scale undertakings related to inner city needs, including concentrated sources of employment: *Provided,* That the requirement in paragraph (a) of this section that the area be a slum area or a blighted, deteriorated or deteriorating area shall not be applicable in the case of projects under clauses (iii), (iv), and (v) hereof: *Provided further,* That the aggregate amount of capital grants for projects under clause (iv) shall not exceed 5 per centum of the aggregate amount of grants authorized by this subchapter to be contracted for after September 2, 1964;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, pedestrian malls and walkways (including in the case of an enclosed mall or walkway any necessary roofs, walls, columns, lighting, and climate control facilities), and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this subchapter in accordance with the urban renewal plan;

(4) disposition of any property acquired in the urban renewal area (including sale, leasing or retention by the local public agency itself) at its fair value for uses in accordance with the urban renewal plan or as provided in section 1457 of the title;

(5) carrying out plans for programs of code enforcement or voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;

(6) acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses deterimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, to promote historic and architectural preservation, or to provide land for needed public facilities;

(7) Construction of foundations and platforms necessary for the development of air rights sites in accordance with the provisions of clause (iv) or (v) of paragraph (1) of this subsection.

(8) acquisition and repair or rehabilitation for resale by the local public agency, of structures which are located in the urban renewal area and

which, under the urban renewal plan, are to be repaired or rehabilitated for dwelling use or related facilities;

(9) relocation within or outside the project area of structures which will be restored and maintained for architectural or historic purposes; and

(10) restoration of acquired properties of historic or architectural value.

Notwithstanding any other provision of this subchapter, (A) no contract shall be entered into for any loan or capital grant under this subchapter for any project which provides for demolition and removal of buildings and improvements unless the Secretary determines that the objectives of the urban renewal plan could not be achieved through rehabilitation of the project area, and (B) not less than 10 per centum of the aggregate amount of (i) grants authorized to be contracted for under this subchapter by the Housing and Urban Development Act of 1965 and subsequent Acts, and (ii) loans authorized to be made under section 1452b of this title, shall be available for projects assisted with such grants or loans which involve primarily code enforcement and rehabilitation.

For the purposes of this subchapter, the term "project" shall not include (except as provided in paragraph (3) with respect to enclosed pedestrian malls and walkways and as provided in paragraphs (7), (8), (9), and (10) above) the construction or improvement of any building, and the term "redevelopment" and derivatives thereof shall mean development as well as redevelopment. For any of the purposes of section 1459 of this title, the term "project" shall not include any donations or provisions made as local grants-in-aid and eligible as such pursuant to clauses (2) and (3) of subsection 1460 (d) of this title.

Financial assistance shall not be extended under this subchapter with respect to any urban renewal area which is not predominantly residential in character and which, under the urban renewal plan therefor, is not to be redeveloped for predominantly residential uses: *Provided,* That, if the governing body of the local public agency determines that the redevelopment of such an area for predominantly nonresidential uses is necessary for the proper development of the community, the Secretary may extend financial assistance under this subchapter for such a project: *Provided further,* That the aggregate amount of capital grants contracted to be made pursuant to this subchapter with respect to such projects after September 23, 1959 shall not exceed 30 per centum of the aggregate amount of grants authorized by this subchapter to be contracted for after such date: *And provided further,* That the aggregate amount of capital grants made available under this subchapter with respect to such projects after August 10, 1965, may be in an amount not to exceed (in addition to amounts previously available for such projects) 35 per centum of the amount of additional capital grants authorized under this subchapter by the Housing and Urban Development Act of 1965.

In addition to all other powers hereunder vested, where land within the purview of clause (1)(ii) or (1)(iii) of the first paragraph of this subsection (whether it be predominantly residential or nonresidential in character) is to be redeveloped for predominantly nonresidential uses, loans and advances under this subchapter may be extended therefor if the governing body of the local public agency determines that such redevelopment for predominantly nonresidential uses is necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives and to afford maximum opportunity for the redevelopment of the project area by private enterprise: *Provided,* That loans and outstanding advances to any local public agency pursuant to the authorization of this sentence shall not exceed 2½ per centum of the estimated gross project costs of the projects undertaken under other contracts with such local public agency pursuant to this subchapter.

(d) "Local grants-in-aid" shall mean assistance by a State, municipality, or other public body, or (in the case of cash grants or donations of land or other real property) any other entity, in connection with any project on which a contract for capital grant has been made under this subchapter, in the form of (1) cash grants to defray expenditures within the purview of subsection (e)(1) of this section; (2) donations, at cash value, of land or other real property (exclusive of land in streets, alleys, and other public rights-of-way which may be vacated in connection with the project, or of air rights over streets, alleys, and other public rights-of-way) in the urban renewal area, and demolition, removal, or other work or improvements in the urban renewal area, at the cost thereof, of the types described in clauses (2), (3), (7), (9), and (10) of the second sentence of subsection (c) of this section; and (3) the provision, at their cost, of public buildings or other public facilities (other than publicly owned housing and revenue producing public utilities the capital cost of which is wholly financed with local bonds or obligations payable solely out of revenues derived from service charges) which are necessary for carrying out in the area the urban renewal objectives of this subchapter in accordance with the urban renewal plan: *Provided,* That in any case where, in the determination of the Secretary, any park, playground, public building, or other public facility is of direct benefit both to the urban renewal area and to other areas, and the approximate degree of the benefit to such other areas is estimated by the Secretary at 20 per centum or more of the total benefits, the Secretary shall provide that, for the purpose of computing the amount of the local grants-in-aid for the project, there shall be included only such portion of the cost of such facility as the Secretary estimates to be proportionate to the approximate degree of the benefit of such facility to the urban renewal area: *Provided further,* That any publicly owned facility, the construction of which was begun not earlier than three years prior to November 3, 1966, shall be deemed to benefit an urban renewal project or projects to the extent of 25 per centum of the total benefits of such facility, or $3,500,000, whichever is less, if such facility (A) (i)

is used, or is to be used, by the public predominantly for cultural, exhibition, or civic purposes, or is a city hall or a public safety building, or (ii) is a facility, constructed or rehabilitated by or on behalf of a public university, which is or will be devoted to the treatment of physical or mental disabilities and illness or to medical research; (B) is located within, adjacent to, or in the immediate vicinity of such urban renewal project or projects; (C) is found to contribute materially to the objectives of the urban renewal plan or plans for such project or projects; and (D) is not otherwise eligible as a local grant-in-aid: *And provided further,* That for the purpose of computing the amount of local grants-in-aid under this subsection with respect to any project covered by a Federal-aid contract under this subchapter, the estimated cost (as determined by the Secretary) of parks, playgrounds, public buildings, or other public facilities may be deemed to be the actual cost thereof if (i) the construction or provision thereof is not completed at the time of final disposition of land in the project to be acquired and disposed of under the urban renewal plan, and (ii) the Secretary has received assurances satisfactory to him that such park, playground, public building, or other public facility will be constructed or completed when needed and within a time prescribed by him: *And provided further,* That in any case where a public facility furnished as a local grant-in-aid is financed in whole or in part by special assessments against real property in the project area acquired by the local public agency as part of the project, an amount equal to the total special assessments against such real property (or, in the case of a computation pursuant to the proviso immediately preceding, the estimated amount of such total special assessments) shall be deducted from the cost of such facility for the purpose of computing the amount of the local grants-in-aid for the project. With respect to any demolition or removal work, improvement or facility for which a State, municipality, or other public body has received or has contracted to receive any grant or subsidy from the United States, or any agency or instrumentality thereof, the portion of the cost thereof defrayed or estimated by the Secretary to be defrayed with such subsidy or grant shall not be eligible for inclusion as a local grant-in-aid.

Notwithstanding any other provision of this subsection (except the second sentence of this paragraph), no donation or provision of a public improvement or public facility of a type falling within the purview of this subsection shall be deemed to be ineligible as a local grant-in-aid for any project solely on the basis that the construction of such improvement of facility was commenced without notification to the Secretary or prior to Federal recognition of such project, if such construction was commenced not more than three years prior to the authorization by the Secretary of a contract for loan or capital grant for the project. In connection with any project for which an application is filed not later than December 24, 1969 and which has not received Federal recognition (other than a project to which clause (2) of the second sentence of section 1469b(a) of this title applies), the three-year period referred to above shall be extended to a period of four years prior to the authorization by the Secretary of a contract for loan or capital grant for the project.

Where a project in any municipality includes an area affected by an underground mine fire or by a coal mine subsidence and where it is necessary in such project to remove any underlying coal deposits in order to stabilize the soil or to control the underground mine fire, then any royalties received by the project from the removal and sale of such coal deposits shall be credited to the project as a local grant-in-aid made by such municipality.

(e) "Gross project cost" shall comprise (1) the amount of the expenditures by the local public agency with respect to any and all undertakings necessary to carry out the project (including the payment of carrying charges, but not beyond the point where the project is completed), and (2) the amount of such local grants-in-aid as are furnished in forms other than cash. There may be included as part of the gross project cost, under any contract for loan or grant heretofore or hereafter executed under this subchapter with respect to moneys of the local public agency which are actually expended and outstanding for undertakings (other than in the form of local grants-in-aid) necessary to carry out the project, in the absence of carrying charges on such moneys, an amount in lieu of carrying charges which might otherwise have been payable thereon for the period such moneys are expended and outstanding but not beyond the point where the project is completed, computed for each six-month period or portion thereof, at an interest rate to be determined by the Secretary after taking into consideration for each preceding six-month period the average interest rate borne by any obligations of local public agencies for short-term funds obtained from sources other than the Federal Government in the manner provided in section 1452(c) of this title: *Provided,* That such amount may be computed on the net total of all such moneys of the local public agency remaining expended and outstanding, less other moneys received from the project undertaken in excess of project expenditures, in all projects of the local public agency under this subchapter, and allocated, as the Secretary may determine, to each of such projects. With respect to a project for which a contract for capital grant has been executed on a three-fourths basis pursuant to section 1453(a)(2)(C) of this title, gross project cost shall include, in lieu of the amount specified in clause (1) above, the amount of the expenditures by the local public agency with respect to the following undertakings and activities necessary to carry out such project:

(i) acquisition of land (but only to the extent of the consideration paid to the owner and not title, appraisal, negotiating, legal, or any other expenditures of the local public agency incidental to acquiring land), disposition of land, staff services in connection with programs of code enforcement and voluntary rehabilitation and repair (including community organization), demolition and removal of buildings and improvements, and site prepara-

tion and improvements, all as provided in paragraphs (1), (2), (3), (4), (6), (7), (8) (9), and (10) of subsection (c) of this section; and

(ii) the payment of carrying charges related to the undertakings in clause (i) (including amounts in lieu of carrying charges as determined above), exclusive of taxes and payments in lieu of taxes, but not beyond the point where such project is completed;

but not the cost of any other undertaking and activities (including, but without being limited to, the cost of surveys and plans, legal services of any kind, and all administrative and overhead expenses of the local public agency) with respect to such project. Where real property in the project area is acquired and is owned as part of the project by the local public agency and such property is not subject to ad valorem taxes by reason of its ownership by the local public agency and payments in lieu of taxes are not made on account of such property, there may (with respect to any project for which a contract of Federal assistance under this subchapter is in force or is hereafter executed, other than a project on which a contract for capital grant is made on a three-fourths basis pursuant to section 1453(a)(2)(C) of this title) be included, at the discretion of the Secretary, in gross project cost an amount equal to the ad valorem taxes which would have been levied upon such property if it had been subject to ad valorem taxes, but in all cases prorated for the period during which such property is owned by the local public agency as part of the project, and such amount shall also be considered a cash local grant-in-aid within the purview of subsection (d) of this section. Such amount, and the amount of taxes or payments in lieu of taxes included in gross project cost, shall be subject to the approval of the Secretary and such rules, regulations, limitations, and conditions as he may prescribe.

Where a project includes the acquisition of property which has been damaged because of the collapse or subsidence of underlying coal mines, or underground mine fires, and the property is to be acquired from an individual, family, business concern, or nonprofit organization, which was the owner of such property at the time the damage first occurred, the amount otherwise allowable as the acquisition price of such property may be increased by an amount equal to so much of any diminution in the value of such property as is determined to be reasonably attributable to such damage and to represent an otherwise uncompensated and (but for such acquisition) uncompensable loss actually sustained by such owner.

(f) "Net project cost" shall mean the difference between the gross project cost and the aggregate of (1) the total sales prices of all land or other property sold, and (2) the total capital values (i) imputed, on a basis approved by the Secretary, to all land or other property leased, and (ii) used as a basis for determining the amounts to be transferred to the project from other funds of the local public agency to compensate for any land or other property retained by it for use in accordance with the urban renewal plan.

(g) "Going Federal rate" means (with respect to any contract for a loan or advance entered into after the first annual rate has been specified as provided in this sentence) the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (beginning with the six-month period ending December 31, 1953) during which the contract for loan or advance under this subchapter is authorized by the Secretary, which applicable rate for each six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from the first day of such month of May or November, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. Any contract for a loan or advance, authorized by the Secretary after September 2, 1964, shall provide for a single interest rate which shall be applicable also to future amendments of the contract which provide additional funds thereunder, and shall further provide for a periodic revision of the interest rate on the balance outstanding or to be outstanding of such loan or advance based on the going Federal rate on the date of such revision: *Provided,* That any contract for a loan or advance authorized prior to September 2, 1964 shall be amended (with the first amendment to such contract authorized after September 2, 1964) to provide for such a single interest rate (based on the going Federal rate at the time such amendment is authorized) and for periodic revision thereof.

(h) "Local public agency" means any State, county, municipality, or other governmental entity or public body, or two or more such entities or bodies, authorized to undertake the project for which assistance is sought. The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the territories and possessions of the United States, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

(i) "Land" means any real property, including improved or unimproved land, structures, improvements, easements, incorporeal hereditaments, estates, and other rights in land, legal or equitable.

(j) "Secretary" means the Secretary of Housing and Urban Development.

(k) "Federal recognition" means execution of any contract for financial assistance under this subchapter or concurrence by the Secretary in the commencement, without such assistance of surveys and plans. (June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; July 15, 1949, ch. 338, title I, § 110, 63 Stat. 420; June 30, 1953, ch. 170, § 24(a), 67 Stat. 127; Aug. 2, 1954, ch. 649, title III, § 311, 68 Stat. 626; Aug. 11, 1955, ch. 783, title I, § 106(c), 69 Stat. 637; Aug. 7, 1956, ch. 1029, title III, 302(a)(2), (b)—(d), 70 Stat. 1097; July 12, 1957, Pub. L. 85-104, title III, §§ 302(3)—(5), 305, 306, 71 Stat. 300,

301; Sept. 23, 1959, Pub. L. 86-372, title IV, §§ 412—414(a), 415, 416, 417(3), 73 Stat. 675, 677; June 30, 1961, Pub. L. 87-70, title III, §§ 301(c), 306(b), 307, 308, 314(c), 75 Stat. 166, 168, 172; Sept. 2, 1964, Pub. L. 88-560, title III, §§ 301(b), (c), 303(b), 307—309, 311(a), 78 Stat. 785, 787, 788, 790; Aug. 10, 1965, Pub. L. 89-117, title III, §§ 307—309, 310(a), 311(b), 314(a), 79 Stat. 476—479; Nov. 3, 1966, Pub. L. 89-754, title VI, §§ 601, 602, title VII, §§ 701, 702, 80 Stat. 1278, 1280, 1281; May 25, 1967, Pub. L. 90-19, § 6(b), (g), 81 Stat. 21, 22; Aug. 1, 1968, Pub. L. 90-448, title V, §§ 504, 508(b), 511, title XVII, § 1722(a)—(c), 82 Stat. 521, 523, 524, 610; Dec. 24, 1969, Pub. L. 91-152, title II, §§ 202(a), 203(a), 204, 206, 83 Stat. 385-387; Dec. 31, 1970, Pub. L. 91-609, title II, § 213 (b), title VII, § 741(c), title VIII, § 801(b), 84 Stat. 1779, 1805.)

REFERENCES IN TEXT

The Housing and Urban Development Act of 1965, referred to in subsec. (c), is Pub. L. 89-117. For classification of the Act, see the Short Title Note set out under section 1749aa of Title 12, Banks and Banking.

CODIFICATION

Another section 801(b) of Pub. L. 91-609 amended section 1484(a)(2) of this title.

AMENDMENTS

1970—Subsec. (c)(1). Pub. L. 91-609, § 801(b), addded cl. (5) and inserted in first proviso reference to such cl. (5).

Subsec. (c)(7), Pub. L. 91-609, § 741(c), substituted "Construction of foundations and platforms necessary for the development of air rights sites in accordance with the provisions of clause (iv) or (v) of paragraph (1) of this subsection" for "construction of foundations and platforms necessary for the provision on air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income, or construction of foundations and platforms necessary for the provision of air rights sites for the development of industrial or educational facilities".

Subsec. (f). Pub. L. 91-609, § 213(b), deleted "or for subsequent disposition or retention as provided under section 1456(i) of this title" following "urban renewal plan".

1969—Subsec. (c). Pub. L. 91-152, § 204, inserted reference to pedestrian malls and walkways in par. (3), and added the provision excepting par. (3), with respect to enclosed pedestrian malls and walkways, from the elements not to be included within the term "project".

Subsec. (d). Pub. L. 91-152, §§ 203(a), 206, added "or on behalf of" following "rehabilitated by", "(except the second sentence of this paragraph)" following "Notwithstanding any other provision of this subsection", and the provision extending the period of eligibility from three to four years of local grants-in-aid under the specified conditions.

Subsec. (h). Pub. L. 91-152, § 202(a), redefined the term "State" to include the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

1968—Subsec. (c)(1). Pub. L. 90-448, § 511(a), substituted "for use for the development of industrial or educational facilities" for "for use for industrial development" in cl. (iv).

Subsec. (c)(7). Pub. L. 90-448, § 511(b), substituted "for the development of industrial or educational facilities" for "for industrial development."

Subsec. (c)(8). Pub. L. 90-448, § 504, eliminated provisions which permitted acquisition and repair or rehabilitation for guidance purposes, and which prohibited the local public agency to acquire in any urban renewal area structures which contain or will contain more than one hundred dwelling units, or 5 per centum of the total number of dwelling units in such area which are to be repaired or rehabilitated, whichever is the lesser.

Subsec. (c). Pub. L. 90-448, § 1722(a), inserted paragraph (10) in the parenthetical exception in the definition of project.

Subsec. (d). Pub. L. 90-448, § 1722(b), inserted a reference to paragraph (7) of the second sentence of subsection (c) of this section.

Subsec. (e). Pub. L. 90-448, § 1722(c), inserted a reference to paragraph (10) of subsection (c) of this section in cl. (i).

Subsec. (f). Pub. L. 90-448, § 508(b), inserted phrase "or for subsequent disposition or retention as provided under section 1456(i) of this title."

1967—Pub. L. 90-19, § 6(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), following (c)(10), (d)—(g), and (k) of this section.

Subsec. (j). Pub. L. 90-19, § 6(g), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

1966—Subsec. (b). Pub. L. 89-754, § 601(a), inserted "historic and architectural preservation," following "land acquisition,".

Subsec. (c)(1). Pub. L. 89-754, § 702(a), inserted in cl. (iv) provision, if area is found by local public agency to be unsuitable for use for low or moderate income housing, for use for industrial development.

Subsec. (c)(6). Pub. L. 89-754, § 601(b), inserted provision for promotion of historic and architectural preservation.

Subsec. (c)(7). Pub. L. 89-754, § 702(b), inserted provision for construction of foundations and platforms necessary for provision of air rights sites for industrial development.

Subsec. (c)(9). Pub. L. 89-754, § 601(c), substituted "relocation within or outside the project area of structures which will be restored and maintained for architectural or historic purposes" for "relocating within the project area a structure which the local public agency determines to be of historic value and which will be disposed of to a public body or a private nonprofit organization which will renovate and maintain such structure for historic purposes", now also covered in part by cl. (10) of this subsection.

Subsec. (c)(10). Pub. L. 89-754, § 601(c), added cl. (10).

Subsec. (d). Pub. L. 89-754, §§ 602, 701, included in cl. (2) references to cls. (9) and (10) of second sentence of subsec. (c) of this section, and authorized the Secretary of Housing and Urban Development to count as a local grant-in-aid credit 25 percent of expenditures for a publicly owned facility, the construction of which was begun not earlier than three years before Nov. 3, 1966, if such facility is to be used for cultural, exhibition, civic, or municipal purposes, is in or near the urban renewal project, contributes materially to the objectives of the urban renewal plan and is not otherwise eligible as a local grant-in-aid, respectively.

1965—Subsec. (c). Pub. L. 89-117, §§ 307, 308, 309(a), 311(b), deleted "or a program of code enforcement in an urban renewal area" preceding "or any combination" in the opening paragraph, struck out from par. (5) the proviso which prohibited programs of code enforcement to be included as part of urban renewal projects unless the locality agrees to increase its total expenditures for code enforcement, added par. (9), inserted "(A)" before "no contract" and added cl. (B) to the first unnumbered paragraph following the numbered paragraphs, substituted "paragraphs (7), (8), and (9)" for "paragraphs (7) and (8)" in the second unnumbered paragraph following the numbered paragraphs, and added the third proviso to the third unnumbered paragraph following the numbered paragraphs.

Subsec. (d). Pub. L. 89-117, § 314(a), added the last paragraph requiring local grant-in-aid credit for certain oil royalties.

Subsec. (e). Pub. L. 89-117, §§ 309(b), 310(a), inserted "staff services in connection with programs of code enforcement and voluntary rehabilitation and repair (including community organization)", and substituted "paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9) of subsection (c) of this section" for "paragraphs (1), (2), (3), (4), (6), (7), and (8) of subsection (c) of this section."

1964—Subsec. (c). Pub. L. 88-560, §§ 301 (b), (c), 307, 308(b), included a program of code enforcement in an urban renewal area within "urban renewal projects", the acquisition of air rights over areas such as highways, tracks, bridge and tunnel entrances, limited the grants for projects under clause (c)(1)(iv) to not exceeding 5 percent of the amount authorized by this subchapter to be contracted for after Sept. 2, 1964, substituted "projects under clauses (iii) and (iv) hereof" for "an open land project" in par. (c)(1), provided that no program of code enforcement shall be included as part of a project unless the locality agrees to increase its expenditures for code enforcement by an amount equal to the required local grants-in-aid, no contract shall be entered for any loan or grant for any project which provides for removal of buildings and improvements unless the Administrator determines that the objectives of the renewal plan could not be achieved through rehabilitation of the project area, redesignated former par. (c)(7) as (c)(8) and added par. (7).

Subsec. (d). Pub. L. 88-560, § 308(c), inserted "or of air rights over streets, alleys, and other public rights-of-way."

Subsec. (e). Pub. L. 88-560, §§ 308(d), 311(a), inserted reference to par. (8) of subsec. (c) of this section, and provided that where a project includes the acquisition of property affected by coal mine subsidence or underground mine fires and the property is to be acquired from the owner at the time the damage occurred, the acquisition price may be increased equal to the diminution of such property as is reasonably attributable to such damage and an otherwise uncompensated and uncompensable loss actually sustained by such owner.

Subsec. (g). Pub. L. 88-560, §§ 303(b), 309, provided that contracts authorized after Sept. 2, 1964, shall provide for a single interest rate applicable also to future contract amendments, for periodic revision of the interest rate on the outstanding balance based on the going Federal rate on the date of revision, and that contracts authorized prior to Sept. 2, 1964, shall be amended to provide for such single rate and for periodic revision thereof, deleted "for any project" preceding "under this subchapter is authorized by the Administrator", and provisions that contracts may be revised or superseded by later contracts so that the going Federal rate shall mean the going rate on the date the later contract is authorized.

1961—Subsec. (c). Pub. L. 87-70, §§ 306(b), 307 (a), (b), 308, 314(c), struck out the word "initial" which preceded "leasing or retention" and inserted words "or as provided in section 1457 of this title" in par. (4), added par. (7), inserted the phrase "(except as provided in paragraph (7) above" in the third sentence, and substituted "30 per centum" for "20 per centum" in the second proviso of the fifth sentence.

Subsec. (e). Pub. L. 87-70, §§ 301(c), 307(c), substituted "pursuant to section 1453(a)(2)(C) of this title" for "pursuant to the proviso in the second sentence of section 1453(a) of this title" in the third and fourth sentences, and included par. (7) of subsec. (c) of this section in cl. (i).

1959—Subsec. (b). Pub. L. 86-372, § 412, inserted words ", to the extent required by the Administrator for the making of loans and grants under this subchapter," following "to indicate" in cl. (2).

Subsec. (c). Pub. L. 86-372, § 413, increased the limitation on the amount of capital grants for areas which are not predominantly residential from not more than 10 per centum to not more than 20 per centum of the aggregate amount of grants authorized, inserted provisions permitting assistance if the governing body of the local public agency determines that the redevelopment of such an area for predominantly nonresidential uses is necessary for the proper development of the community, and eliminated provisions which authorized assistance where an area which is not clearly predominantly residential in character contains a substantial number of slum, blighted, deteriorated, or deteriorating dwellings or other living accommodations, the elimination of which would tend to promote the public health, safety, and welfare in the locality involved and such area is not appropriate for predominantly residential uses.

Subsec. (d). Pub. L. 86-372, § 414(a), added paragraph providing that no donation or provision of a public improvement or public facility of a type falling within the purview of this subsection shall be deemed to be ineligible as a local grant-in-aid for any project solely on the basis that the construction of such improvement or facility was commenced without notification to the Administrator or prior to Federal recognition of such project, if such construction was commenced not more than three years prior to the authorization by the Administrator of a contract for loan or capital grant for the project.

Subsec. (e). Pub. L. 86-372, § 415, included as part of the gross project cost an amount in lieu of carrying charges which might otherwise have been payable thereon for the period moneys of the local public agency which are actually expended and outstanding for undertakings necessary to carry out the project are expended and outstanding but not beyond the point where the project is completed.

Subsec. (g). Pub. L. 86-372, § 416, substituted "for any project under this subchapter is authorized" for "is approved", "Any such contract" for "Any contract", and "later contract is authorized" for "contract is revised or superseded by such later contract."

Subsec. (k). Pub. L. 86-372, § 417(3), added subsec. (k).

1957—Subsec. (b). Pub. L. 85-104, § 305, inserted in (1), the words "and shall be consistent with definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements", and deleted from (2) the requirement of indicating the local objectives in the urban renewal plan itself.

Subsec. (d). Pub. L. 85-104, §§ 302(3), 306, inserted the words "to defray expenditures within the purview of subsection (e)(1) of this section" preceding the first semicolon, and inserted in the second proviso of the first sentence, the words "with respect to any project covered by a Federal-aid contract under this subchapter".

Subsec. (e). Pub. L. 85-104, § 302 (4), (5), inserted proviso calculating gross project cost as the sum of expenditures by the local public agency to carry out the project, excluding expenditures for surveys, plans, legal services and administration, and inserted, in the second sentence, "other than a project on which a contract for capital grant is made on a three-fourths basis pursuant to the proviso in the second sentence of section 1453(a) of this title".

1956—Subsec. (b). Act Aug. 7, 1956, § 302(a)(2), inserted "and" after the semicolon at the end of clause (1), and eliminated "; and (3) shall include, for any part of the urban renewal area proposed to be acquired and redeveloped in accordance with clause (1) of the second sentence of subsection (c) of this section, a redevelopment plan approved by the governing body of the locality", substituting a period therefor.

Subsec. (c) Act Aug. 7, 1956, § 302(b)(1), consolidated provisions relating to slum clearance redevelopment with those relating to rehabilitation and conservation, and made applicable to an urban renewal area the requirement that an urban redevelopment area either be predominantly residential to begin with or else be redeveloped for predominantly residential uses.

Subsec. (d). Act Aug. 7, 1956, § 302(b)(2), (c), substituted in clause (2) of the first sentence, "the second sentence" for "either the second or third sentence", eliminated the phrase ", public facilities financed by special assessments against land in the project area," in clause (3) preceding "and revenue producing public utilities", and added proviso deducting from the cost of facilities, for the purpose of computing the local grant-in-aid, an amount equal to the special assessments against land in the project area which is acquired by the local public agency as part of the project.

Subsec. (e). Act Aug. 7, 1956, § 302(d), added provisions allowing communities which do not receive taxes or payments in lieu of taxes for land in the project area, to include in gross project cost an amount equal to the ad valorem taxes which would have been levied upon such property if it had been subject to ad valorem taxes, and that in calculating the amount allowable, the amount

would be prorated for the period during which the property is owned by the local public agency as part of the project and inclusion of any such payments in gross project costs shall be subject to the approval of the Housing Administrator.

1955—Subsec. (c). Act Aug. 11, 1955, authorized loans and advances where land is to be redeveloped for predominantly nonresidential uses.

1954—Act Aug. 2, 1954, added more definitions, and redefined some of the terms used in this subchapter, in view of the general amendment of this subchapter by act Aug. 2, 1954.

1953—Subsec. (g). Act June 30, 1953, caused the minimum base interest rate, under the definition of "Going Federal rate", to:

1. Reflect market yields on Government bonds, instead of interest rates specified in the bonds when issued;
2. Reflect the yield on obligations of the United States having 15 years or more to run to maturity, instead of the rate on a bond which could have a maturity as low as 10 years;
3. Reflect the average yield during a full 1 month period on all outstanding obligations of the United States having 15 years or more to run to maturity, instead of the rate on a single recent issue of bonds;
4. Retain the base rate, once it was specified by the Secretary of the Treasury, instead of varying from month to month as new bonds are issued; and
5. Be adjusted to the nearest one-eighth of 1 percent.

TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

AMENDMENT OF CONTRACTS TO REFLECT 1965 AMENDMENT TO SUBSEC. (d)

Section 314(b) of Pub. L. 89–117 provided that: "Any contract under title I of the Housing Act of 1949 [this subchapter] executed prior to the date of the enactment of this Act [Aug. 10, 1965] shall, at the request of the municipality involved, be amended to reflect the amendment made by subsection (a) [amending subsec. (d) of this section]."

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO 1965 AMENDMENT TO SUBSEC. (e)

Section 310(b) of Pub. L. 89–117 provided that: "Any contract for a capital grant under title I of the Housing Act of 1949 [this subchapter], executed prior to the date of the enactment of this Act [Aug. 10, 1965], may be amended to incorporate the provisions of subsection (a) [amending subsec. (e) of this section] as to costs incurred on or after the date of the enactment of this Act [Aug. 10, 1965]."

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO SEPTEMBER 2, 1964

Section 311(b) of Pub. L. 88-560 provided that: "Any contract under title I of the Housing Act of 1949 [this subchapter] executed prior to the date of enactment of the Housing Act of 1964 [Sept. 2, 1964] may be amended to provide for payment of the increased amounts authorized under the amendment made by subsection (a) [to subsec. (e) of this section] with respect to any uncompleted project if the project includes acquisitions which, under any State or local law in effect on such date, would involve expenditures by a local public agency that could not otherwise be included in the costs of such project."

WAIVER OF REQUIREMENTS OF SUBSECTION (d) OF THIS SECTION FOR CERTAIN ASSISTANCE PROVIDED DURING THE PERIOD FROM JULY 1, 1957, THROUGH DECEMBER 31, 1957

Section 414(b) of Pub. L. 86–372 provided that: "The requirement in section 110(d) of the Housing Act of 1949 [subsec. (d) of this section] that the assistance provided by a State, municipality, or other public body under that section, in order to qualify as a local grant-in-aid, shall be in connection with a project on which a contract for capital grant has been made under title I of that Act [this subchapter], shall not apply to assistance provided during the period from July 1, 1957, through December 31, 1957, in connection with urban renewal activities which were extended Federal recognition within sixty days after the provision of such assistance was initiated."

CROSS REFERENCES

Blighted or deteriorated area requirement, urban renewal disaster area, see section 1462 of this title.

General Services Administration, see section 751 of Title 40, Public Buildings, Property, and Works.

Residential area requirement for urban renewal assistance as not applicable to disaster area, see section 1462 of this title.

Urban renewal plan, requirement of conformance to a general plan of the locality not applicable to disaster areas, see section 1462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1402, 1452, 1453, 1456, 1457, 1460, 1462, 1463, 1469b, 1469c of this title; title 12 sections 24, 84, 1464, 1701z–4, 1715k, 1715*l*; title 15 section 637; title 48 section 1408c.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in District of Columbia Code, § 5–723.

§ 1461. Repealed. Aug. 2, 1954, ch. 649, title III, § 313, 68 Stat. 629.

Section, acts July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305; June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283, which related to conditions precedent to approval of local slum clearance programs, is now covered by other sections in this subchapter. See, particularly, sections 1451 and 1455 of this title.

§ 1462. Disaster areas; urban renewal assistance; nonapplicability of certain requirements.

Where the local governing body certifies, and the Secretary finds, that an urban area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe which the President, pursuant to section 1855a(a) of this title, has determined to be a major disaster, or which the Secretary has determined is in need of such redevelopment or rehabilitation as a result of a riot or civil disorder, he is authorized to extend financial assistance under this subchapter for an urban renewal project with respect to such area without regard to the following:

(1) the "workable program" requirement in section 1451(c) of this title, except that any contract for temporary loan or capital grant pursuant to this section shall obligate the local public agency to comply with the "workable program" requirement in section 1451(c) of this title by a future date determined to be reasonable by the Secretary and specified in such contract;

(2) the requirements in section 1455 (a) (iii) and section 1460 (b) (1) of this title that the urban renewal plan conform to a general plan of the locality as a whole and to the workable program referred to in section 1451 (c) of this title;

(3) the "relocation" requirements in section 1455 (c) of this title: *Provided*, That the Secretary finds that the local public agency has presented a plan for the encouragement, to the maximum extent feasible, of the provision of dwellings suitable for the needs of families displaced by the catastrophe or by redevelopment or rehabilitation activities;

(4) the "public hearing" requirement in section 1455 (d) of this title;

(5) the requirements in sections 1452 and 1460 of this title that the urban renewal area be a slum area or a blighted, deteriorated, or deteriorating area; and

(6) the requirements in section 1460 of this title with respect to the predominantly residential character or predominantly residential reuse of urban renewal areas.

In the preparation of the urban renewal plan with respect to a project aided under this section, the local public agency shall give due regard to the removal or relocation of dwellings from the site of recurring floods or other recurring catastrophes in the project area. (July 15, 1949, ch. 338, title I, § 111, as added Aug. 7, 1956, ch. 1029, title III, § 307(a), 70 Stat. 1101, and amended May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title XI, § 1106(c), 82 Stat. 567.)

AMENDMENTS

1968—Pub. L. 90–448 authorized the Secretary to extend financial assistance in an area which he has determined is in need of redevelopment or rehabilitation as a result of a riot or civil disorder.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in the introductory text and pars. (1), (3) of this section.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in section 1402 of this title and in title 12 section 1715k.

§ 1463. Financial assistance for urban renewal projects in areas involving colleges, universities, or hospitals.

(a) Authorization; local grant-in-aid.

In any case where an educational institution or a hospital is located in or near an urban renewal project area and the governing body of the locality determines that, in addition to the elimination of slums and blight from such area, the undertaking of an urban renewal project in such area will further promote the public welfare and the proper development of the community (1) by making land in such area available for disposition, for uses in accordance with the urban renewal plan, to such educational institution or hospital for redevelopment in accordance with the use or uses specified in the urban renewal plan, (2) by providing, through the redevelopment of the area in accordance with the urban renewal plan, a cohesive neighborhood environment compatible with the functions and needs of such educational institution or hospital, or (3) by any combination of the foregoing, the Secretary is authorized to extend financial assistance under this subchapter for an urban renewal project in such area without regard to the requirements in section 1460 of this title with respect to the predominantly residential character or predominantly residential reuse of urban renewal areas. The aggregate expenditures made by any such institution or hospital (directly or through a private redevelopment corporation or municipal or other public corporation) for the acquisition within, adjacent to, or in the immediate vicinity of the project area, of land, buildings, and structures to be redeveloped or rehabilitated by such institution for educational uses or by such hospital for hospital uses in accordance with the urban renewal plan (or with a development plan proposed by such institution, hospital, or corporation, found acceptable by the Secretary after considering the standards specified in section 1460 (b) of this title, and approved under State or local law after public hearing) and for the demolition of such buildings and structures if, pursuant to such urban renewal or development plan, the land is to be cleared and redeveloped, and for the relocation of occupants from buildings and structures to be demolished or rehabilitated, as certified by such institution or hospital to the local public agency and approved by the Secretary, shall be a local grant-in-aid in connection with such urban renewal project: *Provided,* That no such expenditure shall be eligible as a local grant-in-aid in any case where the property involved is acquired by such educational institution or hospital from a local public agency which, in connection with its acquisition or disposition of such property, has received, or contracted to receive, a capital grant pursuant to this subchapter: *Provided further,* That no such expenditure shall be deemed ineligible as a local grant-in-aid in connection with an urban renewal project, to the extent that the expenditure is otherwise eligible, if the facilities, land, buildings, or structures with respect to which the expenditure is made are located within one mile of the project.

(b) Expenditures by educational institutions and hospitals; eligibility as a local grant-in-aid; extension of eligibility.

Subject to the second sentence of this subsection, no expenditure made by any educational institution or hospital, as provided in subsection (a) of this section shall be deemed ineligible as a local grant-in-aid (1) in connection with any urban renewal project if made not more than seven years prior to the authorization by the Secretary of a contract for a loan or capital grant for such project, or (2) in connection with any such project for which the Secretary, prior to September 25, 1963, has authorized a loan or capital grant contract if made not more than five years prior to the submission of an application for financial assistance under this subchapter for such urban renewal project. In connection with any project for which an application is filed not later than December 24, 1969 and which has not received Federal recognition (other than a project to which clause (2) of the second sentence of section 1469b(a) of this title applies), the seven-year period referred to in clause (1) of the preceding sentence shall be extended to a period of eight years prior to the authorization by the Secretary of a contract for a loan or capital grant for the project.

(c) Aggregate expenditures by public authority deemed a local grant-in-aid.

The aggregate expenditures made by any public authority, established by any State, for acquisition, demolition, and relocation in connection with land, buildings, and structures acquired by such public authority and leased to an educational institution for educational uses or to a hospital for hospital uses shall be deemed a local grant-in-aid to the same extent as if such expenditures had been made directly by such educational institution or hospital.

(d) Definitions.

As used in this section—

(1) the term "educational institution" means any educational institution of higher learning, including any public educational institution or any private educational institution, no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(2) the term "hospital" means any hospital licensed by the State in which such hospital is located, including any public hospital or any nonprofit hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(July 15, 1949, ch. 338, title I, § 112, as added Sept. 23, 1959, Pub. L. 86–372, title IV, § 418, 73 Stat. 677, and amended June 30, 1961, Pub. L. 87–70, title III, § 309, 75 Stat. 169; Nov. 3, 1966, Pub. L. 89–754, title VII, § 705, 80 Stat. 1281; May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Dec. 24, 1969, Pub. L. 91–152, title II, § 203(b), 83 Stat. 386.)

AMENDMENTS

1969—Subsec. (b). Pub. L. 91–152 substituted "Subject to the second sentence of this subsection, no expenditure" for "No expenditure", and added the provision extending the period of eligibility from seven to eight years of local grants-in-aid under the specified conditions.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1966—Subsec. (a). Pub. L. 89–754 authorized expenditures for facilities, land, buildings, or structures located within one mile of the project.

1961—Subsec. (a). Pub. L. 87–70 designated existing provisions as subsec. (a), authorized assistance to hospitals, provided that expenditures made through municipal or other public corporations shall be considered as local grant-in-aid, inserted the proviso stating that no expenditure shall be eligible as a local grant-in-aid in any case where the property involved is acquired by the educational institution or hospital from a local public agency which, in connection with its acquisition or disposition of such property, has received, or contracted to receive, a capital grant pursuant to this subchapter, eliminated provisions which provided that no expenditure shall be deemed ineligible as a local grant-in-aid in connection with any project if made not more than five years prior to the authorization of a contract for a loan or capital grant for such urban renewal project, and transferred the definition of "educational institution" to subsec. (d) of this section.

Subsecs. (b)—(d). Pub. L. 87–70 added subsecs. (b)—(d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1469b of this title.

§ 1464. Redevelopment areas.

(a) Urban renewal assistance.

Whenever the Secretary of Commerce certifies to the Secretary (1) that any county, city, or other municipality (in this section referred to as a "municipality") is situated in an area designated under section 5 of the Area Redevelopment Act as a redevelopment area, and (2) that there is a reasonable probability that with assistance provided under such Act and other undertakings the area will be able to achieve more than temporary improvement in its economy, the Secretary is authorized to provide financial assistance to a local public agency in any such municipality under this subchapter and the provisions of this section.

(b) Nonapplicability of certain requirements.

Subject to the provisions of subsection (e) of this section, the Secretary may provide such financial assistance under this section without regard to the requirement or limitations of section 1460(c) of this title that the project area be predominantly residential in character or be redeveloped for predominantly residential uses under the urban renewal plan, and without regard to any of the limitations of that section on the undertaking of projects for predominantly nonresidential uses.

(c) Disposition of lands for industrial or commercial uses; fair value; obligations of purchasers, lessees, and assignees of property.

Notwithstanding any other provision of this subchapter, a contract for financial assistance under this section may include provisions permitting the disposition of any land in the project area designated under the urban renewal plan for industrial or commercial uses to any public agency or nonprofit corporation for subsequent disposition as promptly as practicable by such public agency or corporation for the redevelopment of the land in accordance with the urban renewal plan: *Provided,* That any disposition of such land to such public agency or corporation under this section shall be made at its fair value for uses in accordance with the urban renewal plan: *And provided further,* That only the purchaser from or lessees of such public agency or corporation, and their assignees, shall be required to assume the obligations relating to the commencement of improvements imposed under section 1455(b) of this title.

(d) Completion of projects notwithstanding termination of area status.

Following the execution of any contract for financial assistance under this section with respect to any project, the Secretary may exercise the authority vested in him under this section as well as other provisions of this subchapter for the completion of such projects, notwithstanding any determination made after the execution of such contract that the area in which the project is located is no longer a redevelopment area under the Area Redevelopment Act.

(e) Limitation on expenditures; exclusion of expenditures from aggregate amount of capital grants for urban renewal projects.

Not more than 10 per centum of the funds authorized for capital grants under section 1453 of this title after May 1, 1961, shall be used for the purpose of providing financial assistance under this section. Amounts used for such purpose shall not be taken into account for the purpose of the limitation contained in the second proviso of the fifth sentence of section 1460(c) of this title. (July 15, 1949, ch. 338, title I, § 113, as added May 1, 1961, Pub. L. 87–27, § 14, 75 Stat. 57, and amended May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21.)

REFERENCES IN TEXT

Section 5 of the Area Redevelopment Act and such Act (meaning the Area Redevelopemnt Act), referred to in subsec. (a), are classified to section 2504 and chapter 28, respectively, of this title.

The Area Redevelopment Act, referred to in subsec. (d), is classified to chapter 28 of this title.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), and (d) of this section.

TERMINATION OF AUTHORITY

Termination of section and authority thereunder at close of June 30, 1965, see section 29(a) of Pub. L. 87-27, set out as section 2525 of this title.

§ 1465. Relocation.

(a) Financial assistance to displaced individuals, families, businesses, and nonprofit organizations.

Notwithstanding any other provision of this subchapter, an urban renewal project may include the making of payments as prescribed in this section to displaced individuals, families, business concerns, and nonprofit organizations; and any contract for financial assistance under this subchapter shall provide that the capital grant otherwise payable for the project shall be increased by an amount equal to such payments and that no part of the amount of such payments shall be required to be contributed as part of the local grant-in-aid. As used in this section, "displaced" refers to displacement from an urban renewal area made necessary by (1) the acquisition of real property by a local public agency or by any other public body, (2) code enforcement activities undertaken in connection with an urban renewal project, or (3) a program of voluntary rehabilitation of buildings or other improvements in accordance with an urban renewal plan.

(b) Payments to business concerns or nonprofit organizations; considerations; maximum amounts.

A local public agency may pay to any displaced business concern or nonprofit organization—

(1) its reasonable and necessary moving expenses and any actual direct losses of property except goodwill or profit (which are incurred on and after August 7, 1956, and for which reimbursement or compensation is not otherwise made): *Provided,* That such payment shall not exceed $3,000 (or, if greater, the total certified actual moving expenses): *Provided further,* That the Secretary may authorize payment to displaced business concerns of fixed amounts in lieu of their total certified actual moving expenses where he determines that it is impractical for a displaced business concern to calculate the amount of such expenses; and

(2) an additional $2,500 in the case of a private business concern with average annual net earnings of less than $10,000 per year which (A) was doing business in a location in the urban renewal area on the date of local approval of the urban renewal plan (or of acquisition of real property under the third sentence of section 1452(a) of this title, (B) is displaced on or after January 27, 1964, and (C) is not part of an enterprise having establishments outside the urban renewal area.

Notwithstanding the provisions of clause (1) of the preceding sentence, a business concern which is not being displaced from an urban renewal area shall be eligible for payments under such clause (1) of its moving expenses with respect to its outdoor advertising displays being removed from the urban renewal area in the same manner as though such business concern were being displaced.

(c) Payments to individuals and families; considerations; computation of amount; maximum amounts; restrictions.

(1) A local public agency may pay to any displaced individual or family his or its reasonable and necessary moving expenses and any actual direct losses of property (which are incurred on and after August 7, 1956, and for which reimbursement or compensation is not otherwise made): *Provided,* That such payment shall not exceed $200: *And provided further,* That the Secretary may authorize payment to individuals and families of fixed amounts (not to exceed $200 in any case) in lieu of their respective reasonable and necessary moving expenses and actual direct losses of property.

(2) In addition to any amount under paragraph (1), a local public agency may pay to or on behalf of any displaced family, displaced individual sixty-two years of age or over, or displaced handicapped individual, monthly payments over a period not to exceed twenty-four months in an amount not to exceed $500 in the first twelve months and $500 in the second twelve months to assist such displaced family or individual to secure a decent, safe, and sanitary dwelling. The additional payment shall be an amount which, when added to 20 per centum of the annual income of the displaced individual or family at the time of displacement, equals the average rental required, for a 12-month period, for such a decent, safe, and sanitary dwelling of modest standards adequate in size to accommodate the displaced individual or family (in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities): *Provided,* That such payment shall be made only to an individual or family who is unable to secure a dwelling unit in a low-rent housing project assisted under the United States Housing Act of 1937, or under a State or local program found by the Secretary to have the same general purposes as the Federal program under such Act or a dwelling assisted under section 1701s of Title 12: *Provided further,* That additional payments under this paragraph may be paid on a lump sum or other than monthly basis in cases in which the small size of the payments that would otherwise be required do not warrant a number of separate payments or in other cases in which other than monthly payments are determined warranted by the Secretary: *And provided further,* That no payment received under this paragraph shall be considered as income for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal Act.

(3) In addition to any amount under paragraph (1), a local public agency may make a payment to a displaced family or individual, who does not receive the additional payment authorized under paragraph (2) and who is the owner of real property which is acquired for a project assisted under this subchapter and which is improved by a single- or two-family dwelling occupied by the owner for a period of not less than one year prior to the initiation of negotiations for the acquisition of such property. Such payment, not to exceed $5,000, shall be an amount which, when added to the acquisition payment, equals the

average price required for a decent, safe, and sanitary dwelling of modest standards adequate in size to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market: *Provided,* That such payment may be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project: *Provided further,* That no such payment may be made if the owner-occupant receives a payment required by the State law of eminent domain which is determined by the Secretary to have substantially the same purpose and effect as this paragraph and to be part of the cost of the project for which Federal financial assistance is available.

(d) Payments to individuals, families, business concerns, and nonprofit organizations for recording fees, transfer taxes, incidental expenses, penalty costs, and pro rata taxes.

In addition to payments authorized to be made under subsections (b) and (c) of this section, a local public agency may pay to any displaced individual, family, business concern, or nonprofit organization reasonable and necessary expenses incurred for (1) recording fees, transfer taxes, and similar expenses incidental to conveying real property to a project assisted under this subchapter, (2) penalty costs for prepayment of any mortgage encumbering such real property, and (3) the pro rata portion of real property taxes allocable to a period subsequent to the date of vesting of title or the effective date of the acquisition of such real property by such agency, whichever is earlier.

(e) Rules and regulations; finality of administrative decisions; promptness of payments.

The Secretary is authorized to establish such rules and regulations as he may deem appropriate in carrying out the provisions of this section and may provide in any contract with a local public agency, or in regulations promulgated by the Secretary, that determinations of any duly designated officer or agency as to eligibility for and the amount of relocation assistance authorized by this section shall be final and conclusive for any purposes and not subject to redetermination by any court or any other officer. Such regulations shall include provisions to assure that relocation payments, as authorized by this section, shall be made as promptly as possible to all families, individuals, business concerns, and nonprofit organizations found to be eligible for such payments by reason of their having been displaced from property in the urban renewal area, without regard to any subsequent proceedings, determinations, or events relating to such property which do not bear upon whether such displacement in fact occurred. (July 15, 1949, ch. 338, title I, § 114, as added Sept. 2, 1964, Pub. L. 88–560, title III, § 310 (a), 78 Stat. 788, and amended Aug. 10, 1965, Pub. L. 89–117, title I, § 101(i), title IV, § 404 (b), (c)(1), 79 Stat. 453, 486; May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 516, 82 Stat. 526; Dec. 31, 1970, Pub. L. 91–609, title II, § 212, 84 Stat. 1779.)

REPEAL

Provisions of section repealed by Pub. L. 91–646, title II, § 220(a)(5), Jan. 2, 1971, 84 Stat. 1903, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State, but such sections completely applicable to all such States after July 1, 1972. Until such date applicable to a State to the extent the State is able under its laws to comply with such sections. See section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (c), is classified to chapter 8 of this title.

The Social Security Act, referred to in subsec. (c)(2), is classified in section 301 et seq. of this title.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–609 in cl. (1) of first sentence authorized relocation payments to displaced business concerns of fixed amounts in lieu of their total certified actual moving expenses where he determines that it is impractical for such concerns to calculate the amount of such expenses, and in second sentence struck out "certified actual" preceding "moving expenses", respectively.

1968—Subsec. (c)(2). Pub. L. 90–448, § 516(1)–(3), authorized payments to displaced handicapped individuals, increased the amount of the payment from not more than $500 payable during the first five months after displacement, to not more than $500 in the first twelve months and not more than $500 in the second twelve months, payable in monthly payments over the two-year period, permitted the payments to be made on a lump sum or other than monthly basis in cases in which the small size of the payments do not warrant a number of separate payments or in other cases in which other than monthly payments are warranted, provided that no payment received shall be considered as income for purpose of eligibility under the Social Security Act or any other Federal Act, and eliminated provisions which restricted payments to families and individuals sixty-two years of age or over, displaced on or after January 27, 1964.

Subsec. (c)(3). Pub. L. 90–448, § 516(4), added subsec. (c)(3).

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" whichever appearing in subsecs. (c)(1), (2) and (e) of this section.

1965—Subsec. (b). Pub. L. 89–117, § 404(b), substituted "$2,500" for "$1,500".

Subsec. (c)(2). Pub. L. 89–117, § 101(i) inserted "or a dwelling unit assisted under section 1701s of Title 12" at the end of the first proviso.

Subsec. (d). Pub. L. 89–117, § 404(c)(1), redesignated former subsec. (d) as subsec. (e) and added subsec. (d).

Subsec. (e). Pub. L. 89–117, § 404(c)(1), redesignated former subsec. (d) as subsec. (e).

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO SEPTEMBER 2, 1964

Section 310(b) of Pub. L. 88–560 provided that: "Any contract with a local public agency which was executed under title I of the Housing Act of 1949 [this subchapter] before the date of the enactment of this Act [Sept. 2, 1964] may be amended to provide for payments authorized by section 114 of the Housing Act of 1949 [this section].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1415, 1468, 1468a, 3073, 3074 of this title; title 12 section 1701z–4.

§ 1466. Rehabilitation grants.

(a)(1) Notwithstanding any other provision of this subchapter, the Secretary may authorize a local public agency to make grants (and the urban renewal project may include the making of such

grants) as prescribed in this section. Any such grant may be made only to an individual or family, as described in subsection (c) of this section, who owns and occupies real property in an urban renewal area, and only for the purpose of covering the cost of repairs and improvements necessary to make such real property conform to public standards for decent, safe, and sanitary housing as required by applicable codes or other requirements of the urban renewal plan for the area. Any contract for financial assistance under this subchapter shall provide that the capital grant otherwise payable for the project shall be increased by an amount equal to the total amount of the grants under this section and that no part of the total amount of such grants shall be required to be contributed as part of the local grant-in-aid.

(2) In addition to the authority conferred by paragraph (1), and notwithstanding any other provision of this subchapter, the Secretary is authorized, through the utilization of local public agencies where feasible, to make grants (payable from any grant funds provided under section 1453(b) of this title) to an individual or family, as described in subsection (b) of this section, to cover the cost of repairs and improvements necessary to make real property owned and occupied by such individual or family conform to public standards for decent, safe, and sanitary housing. No grants shall be made under this paragraph in the case of any property, unless (A) such property is in an area within a locality (other than an urban renewal or code enforcement area) which the governing body of the locality has determined, and so certifies to the Secretary, contains a substantial number of structures in need of such repairs and improvements, (B) there is in effect for the locality a workable program meeting the requirements of section 1451(c) of this title, and (C) the area is definitely planned for rehabilitation or concentrated code enforcement within a reasonable time, and such repairs and improvements to such property are consistent with the plan for rehabilitation or concentrated code enforcement.

(b) The Secretary is authorized to make grants (payable from any grant funds provided under section 1453(b) of this title), through the utilization of local public and private agencies where feasible, to an individual or family, as described in subsection (c) of this section, who owns and occupies real property which has been determined to be uninsurable because of physical hazards after an inspection pursuant to a statewide property insurance plan approved by the Secretary under title XII of the National Housing Act. Such grants may only be made to rehabilitate such property to the extent which the Secretary determines to be necessary to make it meet reasonable underwriting standards imposed by such plan.

(c) A grant authorized by this section may be made to an individual or family whose income does not exceed $3,000 a year, and such grant may be in the amount which does not exceed the lesser of (1) the actual (and approved) cost of the repairs and improvements involved, or (2) $3,500. In case the income of the individual or family exceeds $3,000 a year, a grant may be made under this section, subject to the limitations specified in clauses (1) and (2) of the preceding sentence, but only in an amount not to exceed that portion of the cost of the repairs and improvements which cannot be paid for with any available loan that can be amortized as part of such individual's or family's monthly housing expense without requiring such monthly housing expense to exceed 25 per centum of such individual's or family's monthly income. (July 15, 1949, ch. 338, title I, § 115, as added Aug. 10, 1965, Pub. L. 89–117, title I, § 106(a), 79 Stat. 457, and amended May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 503, 82 Stat. 521; Dec. 24, 1969, Pub. L. 91–152, title II, § 205, 83 Stat. 387.)

REFERENCES IN TEXT

Title XII of the National Housing Act, referred to in subsec. (b), is classified to section 1749bbb et seq. of Title 12, Banks and Banking.

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–152 substituted "or (2) $3,500" for "or (2) $3,000".

1968—Subsec. (a)(1). Pub. L. 90–448, § 503(a), (c), (d)(2), designated existing provisions as par. (1), and substituted therein "real property" for "a structure", "such structure" and "subsection (c)" for "subsection (b)."

Subsec. (a)(2). Pub. L. 90–448, § 503(c), added par. (2).

Subsec. (b). Pub. L. 90–448, § 503(d)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 90–448, § 503(b), (d)(1), redesignated former subsec. (b) as (c), and substituted therein "$3,000" for "$1,500."

1967—Subsec. (a). Pub. L. 90–19 substituted "Secretary" for "Administrator".

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO ENACTMENT OF SECTION

Section 106(b) of Pub. L. 89–117 provided that: "Any contract with a local public agency which was executed under title I of the Housing Act of 1949 [this subchapter] before the date of enactment of this Act [Aug. 10, 1965] may be amended to provide for grants authorized by section 115 of the Housing Act of 1949 [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1468 of this title.

§ 1467. Grants to cities, other municipalities, counties, and Indian tribes, etc., for demolition of unsafe structures; authorization; maximum amount; conditions precedent.

(a) Notwithstanding any other provision of this subchapter, the Secretary is authorized to enter into contracts to make, and to make, grants as provided in this section (payable from any grant funds provided under section 1453(b) of this title) to cities, other municipalities, counties, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States to assist in financing the cost of demolishing structures which under State or local law have been determined to be structurally unsound, a harborage or potential harborage of rats, or unfit for human habitation, and which such city, municipality, or county has authority to demolish. The amount of any grant under this section shall not exceed two-thirds of the cost of the demolition of such structures.

(b) No grant shall be made under this section unless the structures to be demolished are located in an urban renewal area, or, in the case of structures outside an urban renewal area, (1) the locality involved has an approved workable program for

community improvement in accordance with the requirements of section 1451(c) of this title, as determined by the Secretary, (2) the demolition to be assisted will be on a planned neighborhood basis and will further the over-all renewal objectives of such locality, or will be consistent with a systematic rodent control program being undertaken in the neighborhood, (3) there is in such locality a program of enforcement of existing local housing and related codes, (4) the structures to be demolished constitute a public nuisance and a serious hazard to the public health or welfare, and (5) the governing body of such locality has determined that other available legal procedures have been exhausted to secure remedial action by the owner of the structures involved and that demolition by governmental action is required. (July 15, 1949, ch. 388, title I, § 116, as added Aug. 10, 1965, Pub. L. 89–117, title III, § 311(a), 79 Stat. 477, and amended May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 510, 82 Stat. 524; Dec. 24, 1969, Pub. L. 91–152, title II, § 202(b), 83 Stat. 386.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–152 extended applicability of provisions to include Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

1968—Subsec. (a). Pub. L. 90–448, § 510(a), included structures which are a harborage or potential harborage of rats.

Subsec. (b). Pub. L. 90–448, § 510(b), authorized grants where the demolition will be consistent with a systematic rodent control program being undertaken in the neighborhood.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

§ 1468. Grants to cities, other municipalities, counties, and Indian tribes, etc., for code enforcement; authorization; maximum amount; conditions precedent.

Notwithstanding any other provision of this subchapter, the Secretary is authorized to enter into contracts to make, and to make, grants as provided in this section (payable from any grant funds provided under section 1453(b) of this title) to cities, other municipalities, counties, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States for the purpose of assisting such localities in carrying out programs of concentrated code enforcement in deteriorated or deteriorating areas in which such enforcement, together with those public improvements to be provided by the locality, may be expected to arrest the decline of the area. Such grants shall not exceed two-thirds (or three-fourths in the case of any city, other municipality, or county having a population of 50,000 or less according to the most recent decennial census) of the cost of planning and carrying out such programs which may include the provision and repair of necessary streets, curbs, sidewalks, street lighting, tree planting, and similar improvements within such areas. The Secretary shall not make any grant under this section unless he has obtained adequate assurances (1) that the locality will maintain during the period of the contract, in addition to its expenditures for planning and carrying out any program assisted under this section, a level of expenditures for code enforcement activities at not less than its normal expenditures for such activities prior to the execution of such contract, and (2) that the locality has a satisfactory program for the provision of all necessary public improvements for such areas. The provisions of sections 1451(c), 1456, 1465, and 1466 of this title, shall be applicable to activities and undertakings assisted under this section to the same extent as if such activities and undertakings were being carried out in an urban renewal area as part of an urban renewal project: *Provided,* That the Secretary may, in addition to authorizing a local public agency to make grants as prescribed in section 1466 of this title, make such grants through the utilization of local private nonprofit agencies. (July 15, 1949, ch. 338, title I, § 117, as added Aug. 10, 1965, Pub. L. 89–117, title III, § 311(a), 79 Stat. 478, and amended May 25, 1967, Pub. L. 90–19, § 6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, § 515, 82 Stat. 525; Dec. 24, 1969, Pub. L. 91–152, title II, § 202(c), 83 Stat. 386.)

AMENDMENTS

1969—Pub. L. 91–152 extended applicability of provisions to include Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

1968—Pub. L. 90–448 authorized the Secretary, in addition to authorizing a local public agency to make grants as prescribed in section 1466 of this title, to make such grants through the utilization of local private nonprofit agencies.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1452b of this title and in title 12 section 1715k.

§ 1468a. Interim assistance for blighted areas; grants to cities, other municipalities, counties, and Indian tribes, etc.; encouragement of employment of unemployed or underemployed residents.

Notwithstanding any other provision of this subchapter, the Secretary is authorized to enter into contracts (in an aggregate amount not to exceed $15,000,000 in any fiscal year) to make, and to make, grants as provided in this section (payable from any grant funds provided under section 1453(b) of this title) to cities, other municipalities, counties, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States for the purpose of assisting such localities in carrying our[1] programs to alleviate harmful conditions in slum and blighted areas which are planned for substantial clearance, rehabilitation, or federally assisted code enforcement in the near future but in which some immediate public action is needed until clearance, rehabilitation, or code enforcement activities can be undertaken. Such grants shall not exceed two-thirds (or three-fourths in the case of any city, other municipality, or county having a population of fifty thousand or less according to the most recent decennial census) of the cost of planning and carrying out programs which may include (1) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings to meet needs consistent with the short-term continued use of the

[1] So in original. Probably should be "out".

area prior to the undertaking of the contemplated clearance or upgrading activities, (2) the improvement of private properties to the extent needed to eliminate the most immediate dangers to public health and safety, (3) the demolition of structures determined to be structurally unsound or unfit for human habitation and which constitute a public nuisance and serious hazard to the public health and safety, (4) the establishment of temporary public playgrounds on vacant land within the area, and (5) the improvement of garbage and trash collection, street cleaning, and similar activities. The Secretary shall encourage, wherever feasible, the employment of otherwise unemployed or underemployed residents of the area in carrying out the activities and undertakings assisted under this section. The provisions of sections 1451(c), 1456, and 1465 of this title shall be applicable to activities and undertakings assisted under this section to the same extent as if such activities and undertakings were being carried out in an urban renewal area as part of an urban renewal project. (July 15, 1949, ch. 338, title I, § 118, as added Aug. 1, 1968, Pub. L. 90–448, title V, § 514, 82 Stat. 525, and amended Dec. 24, 1969, Pub. L. 91–152, title II, § 202(d), 83 Stat. 386.)

AMENDMENTS

1969—Pub. L. 91–152 extended applicability of provisions to include Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

PART B.—NEIGHBORHOOD DEVELOPMENT PROGRAMS

§ 1469. Declaration of purpose.

(a) Authorization for financial assistance to local public agencies.

To facilitate more rapid renewal and development of urban areas on an effective scale, and to encourage more efficient and flexible utilization of public and private development opportunities by local communities in such areas, the Secretary is authorized to make financial assistance available under this subchapter to local public agencies for undertakings and activities which are carried out under a neighborhood development program approved by him pursuant to this part.

(b) Extent of neighborhood development program.

A neighborhood development program shall consist of urban renewal project undertakings and activities in one or more urban renewal areas which are planned and carried out on the basis of annual increments in accordance with the provisions of this subchapter for planning and carrying out urban renewal projects, except as modified by the provisions of this part.

(c) Conditions for approval of applications for financial assistance.

No application for financial assistance in planning and carrying out a neighborhood develpoment program shall be approved by the Secretary unless—

(1) the governing body of the locality has, by resolution or ordinance, approved the proposed program and the annual increment covered by the application and authorized the filing of the application for financial assistance; and

(2) the Secretary has concluded that there is the necessary capacity to carry out the undertakings and activities included under the program.

(July 15, 1949, ch. 338, title I, § 131, as added Aug. 1, 1968, Pub. L. 90–448, title V, § 501(b), 82 Stat. 518.)

NEIGHBORHOOD DEVELOPMENT PROGRAMS BY DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Section 501(c) of Pub. L. 90–448 provided that: "Notwithstanding any requirement or condition to the contrary in section 6 or 20(i) of the District of Columbia Redevelopment Act of 1945 or in any other provision of law, the District of Columbia Redevelopment Land Agency may plan and undertake neighborhood development programs under part B of title I of the Housing Act of 1949 (as added by this section [sections 1469–1469c of this title], subject to all of the provisions of such Act of 1945 to the extent not inconsistent with such part B, and any such program shall be regarded as complying with the requirements of such sections 6 and 20(i) and of such other provision of law if it meets the applicable requirements established under such part B."

§ 1469a. Financing of undertakings and activities; payment of excess of sale price and imputed capital value of land or other property leased or retained over gross project cost.

(a) Upon the approval of a neighborhood development program by the Secretary, the cost of any undertakings and activities authorized as part of the program shall be financed in accordance with the loan, capital grant, and project cost provisions of part A, except that—

(1) net project cost may be calculated on the basis of costs incurred and proceeds derived for the account of the program during a specified twelve-month period, and may be recalculated for succeeding periods of twelve months to reflect additional costs and additional proceeds since the date of the last computation or recomputation; and

(2) if property has been acquired but not disposed of prior to the computation or recomputation of net project cost, temporary loans made or secured under this subchapter to finance undertakings or activities included in the program may remain outstanding until the property has been disposed of and the proceeds thereof together with additional funds becoming available to the program, are sufficient to permit repayment of the loans.

(b) In the event that gross project cost as computed for a specified twelve-month period is exceeded, with respect to that period, by the sum of (1) the sales price of land or other property sold, and (2) the imputed capital value of land or other property leased or retained by the local public agency in accordance with the provisions of the urban renewal plan, the local public agency shall pay to the Secretary two-thirds of the excess (or three-fourths in the case of a program on a three-fourths grant basis), which amount shall be available to the Secretary for grant payments under section 1453 of this title. (July 15, 1949, ch. 338, title I, § 132, as added Aug. 1, 1968, Pub. L. 90–448, title V, § 501(b), 82 Stat. 519.)

§ 1469b. Local grants-in-aid.

(a) Determination of eligibility; extension of eligibility.

Except as otherwise provided in this subsection, for the purpose of determining the eligibility of

local grants-in-aid in connection with undertakings and activities carried out under a neighborhood development program, the three-year period referred to in the first sentence of the second paragraph of section 1460(d) of this title shall be deemed to be a period of three years prior to the authorization by the Secretary of the first contract for financial assistance under the program which includes the urban renewal area which is benefited by the public improvement or facility for which credit is claimed; and the seven-year period referred to in clause (1) of section 1463(b) of this title shall be deemed to be a period of seven years prior to the date of authorization by the Secretary of the first contract for financial assistance under the program which includes the urban renewal area which is benefited by the expenditures for which credit is claimed. In connection with any neighborhood development program for which an application is filed not later than December 24, 1969 and for which no contract for financial assistance under the program has been authorized by the Secretary, the three-year and seven-year periods referred to above shall be extended to periods of four and eight years, respectively, prior to authorization of (1) the first contract for financial assistance under the program which includes the urban renewal area benefited by the public improvement or facility (or the expenditures) for which credit is claimed, or (2) a contract for a loan or capital grant for an urban renewal project authorized after December 24, 1969 in an area which is benefited by the public improvement or facility (or the expenditures) for which credit is claimed and which was included in the neighborhood development program application.

(b) Cost of public improvement or facility.

No portion of the cost of a public improvement or public facility (to the extent otherwise eligible) may be included as a local grant-in-aid in computing the gross project cost of an approved program for any twelve-month period—

(1) prior to commencement of construction of the improvement or facility, or

(2) in excess of the amount actually expended or obligated by contract.

(c) Excess local grants-in-aid; inapplicability of pooling provisions.

The provisions of section 1454 of this title with respect to the pooling of local grants-in-aid among the various projects undertaken by a local public agency shall not be applicable with respect to any excess local grants-in-aid resulting from the urban renewal projects contained in a neighborhood development program. (July 15, 1949, ch. 338, title I, § 133, as added Aug. 1, 1968, Pub. L. 90–448, title V, § 501(b), 82 Stat. 519, and amended Dec. 24, 1969, Pub. L. 91–152, title II, § 203(c), 83 Stat. 386.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–152 substituted "Except as otherwise provided in this subsection, for" for "For", added "the first sentence of" preceding "the second paragraph", and added the provisions extending the periods of eligibility of local grants-in-aid under the specified conditions from three and seven years to four and eight years, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1463 of this title.

§ 1469c. General provisions.

(a) Workable program requirement; capital grants; relocation requirements; transient housing; demolition and removal of buildings and improvements.

For purposes of this part—

(1) the workable program requirement in section 1451(c) of this title shall apply to the authorization, rather than the execution, of any contract for loans or capital grants;

(2) capital grants on a three-fourths basis may only be made under section 1453(a)(2)(B) of this title;

(3) the relocation requirements specified in section 1455(c) of this title shall apply to each annual increment of an approved program;

(4) section 1456(g) of this title (relating to transient housing) shall apply to activities undertaken under approved programs, except that the determination as to need for transient housing shall be made with respect to any sale or lease of land for construction of such housing prior to such sale or lease; and

(5) the requirement concerning demolition and removal of buildings and improvements stated in clause (A) of the sentence following paragraph (10) of section 1460(c) of this title shall apply to each annual increment of an approved program.

(b) Obligation to provide financial assistance for subsequent annual increments.

The approval by the Secretary of financial assistance for one or more annual increments of a neighborhood development program shall not be considered as obligating him to provide financial assistance for any subsequent annual increments.

(c) Extent of urban renewal plan; modification; establishment of requirements prescribing scope and content of plan.

The urban renewal plan referred to in section 1460(b) of this title may cover one or more of the urban renewal areas covered by a neighborhood development program and such plan may be modified from time to time to cover additional urban renewal areas added to the program. The Secretary may establish such requirements as he deems appropriate prescribing the scope and content of such plan, taking into consideration, among other matters, the degree of detail needed in the plan to properly and expeditiously carry out the activities and undertakings proposed in any annual increment of a neighborhood development program. (July 15, 1949, ch. 338, title I, § 134, as added Aug. 1, 1968, Pub. L. 90–448, title V, § 501(b), 82 Stat. 520.)

SUBCHAPTER III.—FARM HOUSING

§ 1471. Financial assistance by Secretary of Agriculture; definitions; conditions of eligibility.

(a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized, subject to the terms and conditions of this subchapter, to extend financial assistance, through the Farmers Home Administration, (1) to owners of farms in the

United States and in the Territories of Alaska and Hawaii and in Puerto Rico and the Virgin Islands, to enable them to construct, improve, alter, repair, or replace dwellings and other farm buildings on their farms, and to purchase buildings and land constituting a minimum adequate site, in order to provide them, their tenants, lessees, sharecroppers, and laborers with decent, safe, and sanitary living conditions and adequate farm building as specified in this subchapter, and (2) to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings and to rural residents for such purposes and for the purchase of buildings and the purchase of land constituting a minimum adequate site, in order to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations, and (3) to elderly persons who are or will be the owners of land in rural areas for the construction, improvement, alteration, or repair of dwellings and related facilities, the purchase of dwellings and related facilities and the purchase of land constituting a minimum adequate site, in order to provide them with adequate dwellings and related facilities for their own use, and (4) to an owner described in clause (1), (2), or (3) for refinancing indebtedness which—

(A) was incurred for an eligible purpose described in such clause,

(B) if not refinanced, is likely to result at an early date in loss of the applicant's necessary dwelling or essential farm service buildings,

(C) is not held or insured by the United States or any agency thereof, and

(D) was incurred prior to the enactment of this clause.

(b)(1) For the purpose of this subchapter, the term "farm" shall mean a parcel or parcels of land operated as a single unit which is used for the production of one or more agricultural commodities and which customarily produces or is capable of producing such commodities for sale and for home use of a gross annual value of not less than the equivalent of a gross annual value of $400 in 1944, as determined by the Secretary. The Secretary shall promptly determine whether any parcel or parcels of land constitute a farm for the purposes of this subchapter whenever requested to do so by any interested Federal, State, or local public agency, and his determination shall be conclusive.

(2) For the purposes of sections 1472, and 1473 of this title, the terms "owner" and "mortgage" shall be deemed to include, respectively, the lessee of, and other security interest in, any leasehold interest which the Secretary determines has an unexpired term (A) in the case of a loan, for a period sufficiently beyond the repayment period of the loan to provide adequate security and a reasonable probability of accomplishing the objectives for which the loan is made, and (B) in the case of a grant for a period sufficient to accomplish the objectives for which the grant is made.

(3) For the purposes of this subchapter, the term "elderly persons" means persons who are 62 years of age or over.

(c) In order to be eligible for the assistance authorized by subsection (a) of this section, the applicant must show (1) that he is the owner of a farm which is without a decent, safe, and sanitary dwelling for himself and his family and necessary resident farm labor, or for the family of the operating tenant, lessee, or sharecropper, or without other farm buildings adequate for the type of farming in which he engages or desires to engage, or that he is the owner of other real estate in a rural area or a rural resident without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations, or that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use, or that he is the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in clause (4) of subsection (a) of this section; (2) that he is without sufficient resources to provide the necessary housing and buildings on his own account; and (3) that he is unable to secure the credit necessary for such housing and buildings from other sources upon terms and conditions which he could reasonably be expected to fulfill.

(d) As used in this subchapter (except in sections 1473 and 1474(b) of this title) the terms "farm", dwellings or other essential buildings of eligible applicants. (July 15, 1949, ch. 338, title V, § 501, 63 Stat. 432; June 30, 1961, Pub. L. 87–70, title VIII, §§ 801(a), 803, 75 Stat. 186; Sept. 28, 1962, Pub. L. 87–723, § 4(a)(1), 76 Stat. 670; Aug. 10, 1965, Pub. L. 89–117, title X, § 1001, 79 Stat. 497; Nov. 3, 1966, Pub. L. 89–754, title VIII, §§ 801, 807, 80 Stat. 1282; Dec. 31, 1970, Pub. L. 91–609, title VIII, § 802, 84 Stat. 1806.)

CODIFICATION

Subsec. (b)(2) retains the words ", the land include in" in the text as the amendment by section 802 of Pub. L. 91–609 of such subsec. (b)(2) appears to be an unintended omission from the text.

AMENDMENTS

1970—Subsec. (b)(2). Pub. L. 91–609 substituted "sections 1472 and 1473 of this title, the terms 'owner' and 'mortgage' shall be deemed to include, respectively, the lessee of" for "this subchapter, the terms 'owner', 'farm', and 'mortgage' shall be deemed to include, respectively, the lessee of, the land included in". The words ", the land included in" were improvidently omitted.

1966—Subsec. (a)(1)–(3). Pub. L. 89–754, § 801, struck out "previously occupied" preceding "buildings and land" in cl. (1), "buildings and the purchase of land" in cl. (2), and "dwellings and related facilities" in cl. (3).

Subsec. (a)(4). Pub. L. 89–754, § 807(a), added clause (4).

Subsec. (c)(1). Pub. L. 89–754, § 807(b), inserted as a condition of eligibility that the applicant be the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in subsec. (a)(4) of this section.

1965—Subsec. (a). Pub. L. 89–117, § 1001(a), authorized the extension of formal assistance to owners of farms to purchase previously occupied buildings and land constituting a minimum adequate site, to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings, and to rural residents for such purposes and for the purchase of previously occupied buildings and the purchase of land constituting a minimum adequate site.

Subsec. (c). Pub. L. 89–117, § 1001(b), inserted "or a rural resident" in cl. (1) after "or that he is the owner of other real estate in a rural area".

1962—Subsec. (a). Pub. L. 87-723, § 4(a)(1)(A), added cl. (3).

Subsec. (b). Pub. L. 87-723, § 4(a)(1)(B), added par. (3).

Subsec. (c). Pub. L. 87-723, § 4(a)(1)(C), inserted provisions in cl. (1) requiring the applicant for assistance to show in the alternative that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use.

1961—Subsec. (a). Pub. L. 87-70, § 803(a), authorized assistance to owners of other real estate in rural areas to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations.

Subsec. (b). Pub. L. 87-70, § 801(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 87-70, § 803(b), permitted the applicant to show that he is the owner of other real estate in a rural area without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations.

Subsec. (d). Pub. L. 87-70, § 803(c), added subsec. (d).

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1476, 1477 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1472. Loans for housing and buildings on adequate farms.

(a) Terms of loan.

If the Secretary determines that an applicant is eligible for assistance as provided in section 1471 of this title and that the applicant has the ability to repay in full the sum to be loaned, with interest, giving due consideration to the income and earning capacity of the applicant and his family from the farm and other sources, and the maintenance of a reasonable standard of living for the owner and the occupants of said farm, a loan may be made by the Secretary to said applicant for a period of not to exceed thirty-three years from the making of the loan with interest, in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title, at a rate not to exceed 5 per centum per annum on the unpaid balance of principal, and, in the case of applicants described in clause (3) of section 1471(a) of this title and applicants under sections 1473 and 1474 of this title, at a rate not to exceed 4 per centum per annum on such unpaid balance. Loans made or insured under this subchapter shall be conditioned on the borrower paying such fees and other charges as the Secretary may require. The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability.

(b) Provisions of loan instrument.

The instruments under which the loan is made and the security given shall—

(1) provide for security upon the applicant's equity in the farm or such other security or collateral, if any, as may be found necessary by the Secretary reasonably to assure repayment of the indebtedness;

(2) provide for the repayment of principal and interest in accordance with schedules and repayment plans prescribed by the Secretary;

(3) contain the agreement of the borrower that he will, at the request of the Secretary, proceed with diligence to refinance the balance of the indebtedness through cooperative or other responsible private credit sources whenever the Secretary determines, in the light of the borrower's circumstances, including his earning capacity and the income from the farm, that he is able to do so upon reasonable terms and conditions;

(4) be in such form and contain such covenants as the Secretary shall prescribe to secure the payment of the loan with interest, protect the security, and assure that the farm will be maintained in repair and that waste and exhaustion of the farm will be prevented.

(July 15, 1949, ch. 338, title V, § 502, 63 Stat. 433; June 30, 1961, Pub. L. 87-70, title VIII, § 801(b), 75 Stat. 186; Sept. 28, 1962, Pub. L. 87-723, § 4(a)(2), 76 Stat. 671; Aug. 10, 1965, Pub. L. 89-117, title X, § 1002, 79 Stat. 497; Nov. 3, 1966, Pub. L. 89-754, title VIII, § 802, 80 Stat. 1282.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-754 substituted "The" for "In cases of applicants who are elderly persons, the" in the third sentence.

1965—Subsec. (a). Pub. L. 89-117 increased to 5 per centum the interest rate in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title and also authorized the Secretary to charge fees on loans made or insured under this subchapter.

1962—Subsec. (a). Pub. L. 87-723 authorized the Secretary to accept, in the case of applicant's who are elderly persons, the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability.

1961—Subsec. (b)(1). Pub. L. 87-70 substituted "or such other security" for "and such additional security."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1473, 1474, 1477, 1480, 1484, 1485, 1487, 1490a of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1473. Loans for housing and buildings on potentially adequate farms; conditions and terms.

If the Secretary determines (a) that, because of the inadequacy of the income of an eligible applicant from the farm to be improved and from other sources, said applicant may not reasonably be expected to make annual repayments of principal and interest in an amount sufficient to repay the loan in full within the period of time prescribed by the Secretary as authorized in this subchapter; (b) that the income of the applicant may be sufficiently increased within a period of not to exceed five years by improvement or enlargement of the farm or an adjustment of the farm practices or methods; and (c) that the applicant has adopted and may reasonably be expected to put into effect a plan of farm improvement, enlargement, or adjusted practices or production which, in the opinion of the Secretary, will increase the applicant's income from said farm within a period of not to exceed five years to the extent that the applicant may be expected thereafter to make annual repayments of principal and

interest sufficient to repay the balance of the indebtedness less payments in cash and credits for the contributions to be made by the Secretary as hereinafter provided, the Secretary may make a loan in an amount necessary to provide adequate farm dwellings and buildings on said farm under the terms and conditions prescribed in section 1472 of this title. In addition, the Secretary may agree with the borrower to make annual contributions during the said five-year period in the form of credits on the borrower's indebtedness in an amount not to exceed the annual installment of interest and 50 per centum of the principal payments accruing during any installment year up to and including the fifth installment year, subject to the conditions that the borrower's income is, in fact, insufficient to enable the borrower to make payments in accordance with the plan or schedule prescribed by the Secretary and that the borrower pursues his plan of farm reorganization and improvements or enlargement with due diligence.

This agreement with respect to credits or principal and interest upon the borrower's indebtedness shall not be assignable nor accrue to the benefit of any third party without the written consent of the Secretary and the Secretary shall have the right, at his option, to cancel the agreement upon the sale of the farm or the execution or creation of any lien thereon subsequent to the lien given to the Secretary, or to refuse to release the lien given to the Secretary except upon payment in cash of the entire original principal plus accrued interest thereon less actual cash payments of principal and interest when the Secretary determines that the release of the lien would permit the benefits of this section to accrue to a person not eligible to receive such benefits (July 15, 1949, ch. 338, title V, § 503, 63 Stat. 434.)

CROSS REFERENCES

Assignments of claims void, see section 203 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1472, 1474, 1477, 1480, 1482, 1483 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1474. Special loans and grants for minor improvements; terms; loans for enlargement or development.

(a) In the event the Secretary determines that an eligible applicant cannot qualify for a loan under the provisions of sections 1472 and 1473 of this title and that repairs or improvements should be made to a farm dwelling occupied by him, in order to make such dwelling safe and sanitary and remove hazards to the health of the occupant, his family, or the community, and that repairs should be made to farm buildings in order to remove hazards and make such buildings safe, the Secretary may make a grant or a combined loan and grant, to the applicant to cover the cost of improvements or additions, such as repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, supplying screens, repairing or providing structural supports, or making other similar repairs or improvements. No assistance shall be extended to any one individual under this subsection in the form of a loan, grant, or combined loan and grant in excess of $2,500, or in excess of such larger amount not exceeding $3,500 as the Secretary determines to be necessary in the case of repairs or improvements involving water supply, septic tank, or bathroom or kitchen plumbing facilities. Any portion of the sums advanced to the borrower treated as a loan shall be secured and be repayable in accordance with the principles and conditions set forth in this subchapter. Sums made available by grant may be made subject to the conditions set out in this subchapter for the protection of the Government with respect to contributions made on loans by the Secretary.

(b) In order to encourage adequate family-size farms the Secretary may make loans under this section and section 1473 of this title to any applicant whose farm needs enlargement or development in order to provide income sufficient to support decent, safe, and sanitary housing and other farm buildings, and may use the funds made available under clause (b) of section 1483 of this title for such purposes. (July 15, 1949, ch. 338, title V, § 504, 63 Stat. 434; Sept. 28, 1962, Pub. L. 87-723, § 4(c)(3), 76 Stat. 672; Nov. 3, 1966, Pub. L. 89-754, title VIII, § 803, 80 Stat. 1282; Dec. 31, 1970, Pub. L. 91-609, title VIII, § 803(a), 84 Stat. 1806.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609 increased limitation on amount of assistance from "$1,500" to "$2,500" and provided for an alternative larger amount not exceeding $3,500 as Secretary determines to be necessary in case of repairs or improvements involving water supply, septic tank, or bathroom or kitchen plumbing facilities.

1966—Subsec. (a). Pub. L. 89-754 increased limitation on assistance from $1,000 to $1,500.

1962—Subsec. (a). Pub. L. 87-723 substituted "in the form of a loan, grant, or combined loan and grant in excess of $1,000" for "(1) in the form of a loan, or combined loan and grant, in excess of $1,000, or (2) in the form of a grant (whether or not combined with a loan) in excess of $500."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1471, 1472, 1477, 1480, 1483 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1474a. Security for direct or insured rural housing loans to farmer applicants.

On and after August 8, 1968, farmer applicants for direct or insured rural housing loans shall be required to provide only such collateral security as is required of owners of nonfarm tracts. (Pub. L. 90-463, title II, § 201, Aug. 8, 1968, 82 Stat. 651.)

CODIFICATION

Section was enacted as a part of the Department of Agriculture and Related Agencies Appropriation Act, 1969, and not as a part of the Housing Act of 1949, which in general comprises this chapter. See, also, Reference in Text note under section 1441 of this title.

§ 1475. Moratorium on loan payments.

During any time that any such loan is outstanding, the Secretary is authorized under regulations to be prescribed by him to grant a moratorium upon the payment of interest and principal on such loan for so long a period as he deems necessary, upon a showing by the borrower that due to circumstances beyond his control, he is unable to continue making payments of such principal and interest when due without unduly impairing his standard of living. In

cases of extreme hardship under the foregoing circumstances, the Secretary is further authorized to cancel interest due and payable on such loans during the moratorium. Should any foreclosure of such a mortgage securing such a loan upon which a moratorium has been granted occur, no deficiency judgment shall be taken against the mortgagor if he shall have faithfully tried to meet his obligation. (July 15, 1949, ch. 338, title V, § 505, 63 Stat. 434.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1480 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1476. Buildings and repairs.

(a) Construction in accordance with plans and specifications; supervision and inspection; technical services and research.

In connection with financial assistance authorized in this subchapter, the Secretary shall require that all new buildings and repairs financed under this subchapter shall be substantially constructed and in accordance with such building plans and specifications as may be required by the Secretary. Buildings and repairs constructed with funds advanced pursuant to this subchapter shall be supervised and inspected, as may be required by the Secretary, by competent employees of the Secretary. In addition to the financial assistance authorized in this subchapter, the Secretary is authorized to furnish, through such agencies as he may determine, to any person, including a person eligible for financial assistance under this subchapter, without charge or at such charges as the Secretary may determine, technical services such as building plans, specifications, construction supervision and inspection, and advice and information regarding farm dwellings and other buildings.

(b) Research and technical studies for reduction of costs and adaption and development of fixtures and appurtenances.

The Secretary is further authorized to conduct research and technical studies including the development, demonstration, and promotion of construction of adequate farm dwellings and other buildings for the purpose of stimulating construction, improving the architectural design and utility of such dwellings and buildings, and utilizing new and native materials, economies in materials and construction methods, and new methods of production, distribution, assembly, and construction, with a view to reducing the cost of farm dwellings and buildings and adapting and developing fixtures and appurtenances for more efficient and economical farm use.

(c) Research, study, and analysis of farm housing.

The Secretary is further authorized to carry out a program of research, study, and analysis of farm housing in the United States to develop data and information on—

(1) the adequacy of existing farm housing;

(2) the nature and extent of current and prospective needs for farm housing, including needs for financing and for improved design, utility, and comfort, and the best methods of satisfying such needs;

(3) problems faced by farmers and other persons eligible under section 1471 of this title in purchasing, constructing, improving, altering, repairing, and replacing farm housing;

(4) the interrelation of farm housing problems and the problems of housing in urban and suburban areas; and

(5) any other matters bearing upon the provision of adequate farm housing.

(d) Grants for research and study programs.

To the extent determined by him to be advisable, the Secretary may carry out the research and study programs authorized by subsections (b) and (c) of this section through grants made by him on such terms, conditions, and standards as he may prescribe to land-grant colleges established pursuant to sections 301 to 308 of Title 7 or through such other agencies as he may select.

(e) Preparation and submission of estimates of housing needs.

The Secretary of Agriculture shall prepare and submit to the President and to the Congress estimates of national farm housing needs and reports with respect to the progress being made toward meeting such needs and correlate and recommend proposals for such executive action or legislation necessary or desirable for the furtherance of the national housing objective and policy established by this Act with respect to farm housing, together with such other reports or information as may be required of the Secretary by the President or the Congress. (July 15, 1949, ch. 338, title V, § 506, 63 Stat. 435; June 30, 1961, Pub. L. 87–70, title VIII, §§ 804(b)(1), 805(a), 75 Stat. 188; Sept. 28, 1962, Pub. L. 87–723, § 4(c)(2), 76 Stat. 672; Sept. 2, 1964, Pub. L. 88–560, title V, § 503(c), 78 Stat. 798; Aug. 10, 1965, Pub. L. 89–117, title X, § 1005(d), 79 Stat. 501.)

REPORT OF ESTIMATES OF NATIONAL FARM HOUSING NEEDS

Pub. L. 89–348, § 1(5), Nov. 8, 1965, 79 Stat. 1310, repealed provisions of subsec. (e) of this section which related to reports of the estimates of national farm housing needs and of progress toward meeting such needs.

REFERENCES IN TEXT

"This Act", referred to in subsec. (e), refers to the Housing Act of 1949. For distribution of that Act in the Code see note set out under section 1441 of this title.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89–117 substituted "this subchapter" for "sections 1471—1474 and sections 1484—1486 of this title" wherever appearing.

1964—Subsec. (a). Pub. L. 88–560 inserted the reference to section 1486 of this title wherever appearing.

1962—Subsec. (a). Pub. L. 87–723 substituted "sections 1484 and 1485" for "section 1484", in two instances.

1961—Subsec. (a). Pub. L. 87–70, §§ 804(b)(1), 805(a)(1), inserted a reference to section 1484 of this title in two instances, and eliminated provisions which authorized the conduct of research and technical studies including the development, demonstration, and promotion of construction of adequate farm dwellings and other buildings for the purposes of stimulating construction, improving architectural design and utility, utilizing new and native materials, economies in materials and construction methods, and new methods of production, distribution, assembly, and construction, which provisions are now contained in subsec. (b) of this section.

Subsecs. (b)—(d). Pub. L. 87–70, § 805(a)(3), added subsecs. (b)—(d). Provisions of subsec. (b) were formerly contained in subsec. (a).

Subsec. (e). Pub. L. 87–70, § 805 (a)(2), redesignated former subsec. (b) as (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1477. Preferences for veterans and families of deceased servicemen.

As between eligible applicants seeking assistance under sections 1471 to 1474, inclusive, of this title, the Secretary shall give preference to veterans and the families of deceased servicemen. As used herein, a "veteran" shall mean a person who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress and who was discharged or released therefrom on conditions other than dishonorable. "Deceased servicemen" shall mean persons who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress and who died in service before the termination of such war or such period. (July 15, 1949, ch. 338, title V, § 507, 63 Stat. 435; June 30, 1953, ch. 174, § 3, 67 Stat. 132; June 30, 1961, Pub. L. 87–70, title VIII, § 804(b)(2), 75 Stat. 188.)

AMENDMENTS

1961—Pub. L. 87–70 substituted "under sections 1471—1474, inclusive, of this title" for "under this subchapter."

1953—Act June 30, 1953, enlarged the definition of "veteran" and "deceased servicemen" to include members of the armed forces who have served during the Korean conflict.

PERIOD OF SERVICE IN MILITARY FORCES

Proc. No. 3080, Jan. 5, 1955, 20 F. R. 173, fixed Jan. 31, 1955, as the date ending the period during which persons must have served in the military forces in order that such persons come within the meaning of the terms "veteran" and "deceased servicemen", contained in this section, by reason of service during the period beginning June 27, 1950.

CONTINUATION OF PROVISIONS

Section 1 (a) (20) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that qualification period should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 84, 1717; title 38 section 1811.

§ 1478. Local committees to assist Secretary.

(a) Composition, appointment, and compensation; chairman; promulgation of procedural rules; forms and equipment.

For the purposes of this subsection and subsection (b) of this section, the Secretary may use the services of any existing committee of farmers operating (pursuant to laws or regulations carried out by the Department of Agriculture) in any county or parish in which activities are carried on under this subchapter. In any county or parish in which activities are carried on under this subchapter and in which no existing satisfactory committee is available, the Secretary is authorized to appoint a committee composed of three persons residing in the county or parish. Each member of such existing or newly appointed committee shall be allowed compensation at the rate determined by the Secretary while engaged in the performance of duties under this subchapter and, in addition, shall be allowed such amounts as the Secretary may prescribe for necessary traveling and subsistence expenses. One member of the committee shall be designated by the Secretary as chairman. The Secretary shall prescribe rules governing the procedures of the committees, furnish forms and equipment necessary for the performance of their duties, and authorize and provide for the compensation of such clerical assistance as he deems may be required by any committee.

(b) Duties.

The committees utilized or appointed pursuant to this section may examine applications of persons desiring to obtain the benefits of this subchapter and may submit recommendations to the Secretary with respect to each applicant as to whether the applicant is eligible to receive the benefits of this subchapter, whether by reason of his character, ability, and experience, he is likely successfully to carry out undertakings required of him under a loan or grant under this subchapter, and whether the farm with respect to which the application is made is of such character that there is a reasonable likelihood that the making of the loan or grant requested will carry out the purposes of this subchapter. The committees may also certify to the Secretary as to the amount of the loan or grant. The committees shall, in addition, perform such other duties under this subchapter as the Secretary may require. (July 15, 1949, ch. 338, title V, § 508, 63 Stat. 436; June 30, 1961, Pub. L. 87–70, title VIII, § 806, 75 Stat. 188; Dec. 31, 1970, Pub. L. 91–609, title VIII, § 803(b), 84 Stat. 1807.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–609 substituted "may" for "shall" in first and second sentences where reading "shall examine", "shall submit", and "shall also certify".

1961—Subsec. (a). Pub. L. 87–70, § 806(a), substituted "at the rate determined by the Secretary" for "at the rate of $5 per day."

Subsec. (b). Pub. L. 87–70, § 806(b), substituted "certify to the Secretary as to the amount of the loan or grant" for "certify to the Secretary their opinions of the reasonable values of the farms."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1490a of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1479. General powers of Secretary.

(a) The Secretary, for the purposes of this subchapter, shall have the power to determine and prescribe the standards of adequate farm housing and other buildings, by farms or localities, taking into consideration, among other factors, the type of housing which will provide decent, safe, and sanitary dwelling for the needs of the family using the housing, the type and character of the farming operations to be conducted, and the size and earning capacity of the land.

(b) The Secretary may require any recipient of a loan or grant to agree that the availability of improvements constructed or repaired with the proceeds of the loan or grant under this subchapter shall not be a justification for directly or indirectly changing the terms or conditions of the lease or occupancy agreement with the occupants of such farms to the latter's disadvantage without the approval of the Secretary. (July 15, 1949, ch. 338, title V, § 509, 63 Stat. 436.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 84, 1717; title 38 section 1811.

§ 1480. Administrative powers of Secretary.

In carrying out the provisions of this subchapter the Secretary shall have the power to—

(a) Service and supply contracts.

make contracts for services and supplies without regard to the provisions of section 5 of Title 41, when the aggregate amount involved is less than $300;

(b) Subordination, subrogation, and other agreements.

enter into subordination, subrogation, or other agreements satisfactory to the Secretary;

(c) Compromise of claims and obligations.

compromise claims and obligations arising out of sections 1472 to 1475 of this title and adjust and modify the terms of mortgages, leases, contracts, and agreements entered into as circumstances may require, including the release from personal liability, without payments of further consideration, of—

(1) borrowers who have transferred their farms to other approved applicants for loans who have agreed to assume the outstanding indebtedness to the Secretary under this subchapter; and

(2) borrowers who have transferred their farms to other approved applicants for loans who have agreed to assume that portion of the outstanding indebtedness to the Secretary under this subchapter which is equal to the earning capacity value of the farm at the time of the transfer, and borrowers whose farms have been acquired by the Secretary, in cases where the Secretary determines that the original borrowers have cooperated in good faith with the Secretary, have farmed in a workmanlike manner, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to their loans, to the best of their abilities;

(d) Collection of claims and obligations.

collect all claims and obligations arising out of or under any mortgage, lease, contract, or agreement entered into pursuant to this subchapter and, if in his judgment necessary and advisable, to pursue the same to final collection in any court having jurisdiction: *Provided,* That the prosecution and defense of all litigation under this subchapter shall be conducted under the supervision of the Attorney General and the legal representation shall be by the United States attorneys for the districts, respectively, in which such litigation may arise and by such other attorney or attorneys as may, under law, be designated by the Attorney General;

(e) Purchase of pledged or mortgaged property at foreclosure or other sales; operation, sale or disposition of said property.

bid for and purchase at any foreclosure or other sale or otherwise to acquire the property pledged or mortgaged to secure a loan or other indebtedness owing under this subchapter, to accept title to any property so purchased or acquired, to operate or lease such property for such period as may be necessary or advisable, to protect the interest of the United States therein and to sell or otherwise dispose of the property so purchased or acquired by such terms and for such considerations as the Secretary shall determine to be reasonable and to make loans as provided herein to provide adequate farm dwellings and buildings for the purchasers of such property;

(f) Utilization of indebtedness.

utilize with respect to the indebtedness arising from loans and payments made under this subchapter, all the powers and authorities given to him under sections 1150 to 1150b of Title 12;

(g) Rules and regulations.

make such rules and regulations as he deems necessary to carry out the purposes of this subchapter. (July 15, 1949, ch. 338, title V, § 510, 63 Stat. 436.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 sections 84, 1717; title 38 section 1811.

§ 1481. Issuance of notes and obligations for loan funds; amount; limitation; security; form and denomination; interest; purchase and sale by Treasury; public debt transaction.

The Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury for the purpose of making direct loans under this subchapter. The total principal amount of such notes and obligations issued pursuant to this section during the period beginning July 1, 1956, and ending October 1, 1969, shall not exceed $850,000,000. The notes and obligations issued by the Secretary shall be secured by the obligations of borrowers and the Secretary's commitments to make contributions under this subchapter and shall be repaid from the payment of principal and interest on the obligations of the borrowers and from funds appropriated hereunder. The notes and other obligations issued by the Secretary shall be in such forms and denominations, shall have such maturities, and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each such note or other obligation shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations out-

standing at the beginning of the fiscal year in which such note or other obligation is issued, which are neither due nor callable for redemption for 15 years from their date of issue. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or obligations shall be treated as public debt transactions of the United States. (July 15, 1949, ch. 338, title V, § 511, 63 Stat. 437; July 14, 1952, ch. 723, § 11(a), 66 Stat. 604; June 29, 1954, ch. 410, § 5(a), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, § 812 (a), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, § 501 (1), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, § 606(a), 70 Stat. 1114; June 30, 1961, Pub. L. 87–70, title VIII, §§ 801(c), 802, 75 Stat. 186; Sept. 28, 1962, Pub. L. 87–723, § 4(c)(1), 76 Stat. 672; Sept. 2, 1964, Pub. L. 88–560, title V, § 501(a), 78 Stat. 796; Aug. 10, 1965, Pub. L. 89–117, title X, § 1003(b), 79 Stat. 500.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsection (f), is classified to sections 745, 752—754b, 757, 757b, 757c—757e, 760, 764—766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

Such Act, as amended, referred to in subsection (f), refers to the Second Liberty Bond Act.

AMENDMENTS

1965—Pub. L. 89–117 changed the purpose for which the Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury from that of making loans under this subchapter (other than loans under section 1474(b) or 1485 of this title) to that of making direct loans under the entire subchapter, substituted "October 1969" for "September 30, 1965", eliminated reservation that, of the allowable $850,000,000 principal amount of notes and obligations, $50,000,000 be available exclusively for assistance to elderly persons under clause (3) of section 1471(a) of this title, and changed the method for setting the interest on notes and obligations from that of having the Secretary set a rate taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the notes or obligations to that of the Secretary setting a rate equal to the average rate payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note or other obligation is issued, which are neither due nor callable for redemption for 15 years from their date of issuance.

1964—Pub. L. 88–560 substituted "September 30, 1965" for "June 30, 1965", and "$850,000,000" for "$700,000,000."

1962—Pub. L. 87–723 substituted "1474(b) or 1485" for "1474(b)" and "$700,000,000, of which $50,000,000 shall be available exclusively for assistance to elderly persons as provided in clause (3) of section 1471(a) of this title" for "$650,000,000."

1961—Pub. L. 87–70 substituted "June 30, 1965" for "June 30, 1961", and "$650,000,000" for "$450,000,000."

1956—Act Aug. 7, 1956, authorized $450,000,000 for loans for the period beginning July 1, 1956, and ending June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $100,000,000 on and after July 1, 1955.

1954—Act Aug. 2, 1954, substituted "$100,000,000" for the authorization of $8,500,000 (on and after July 1, 1954) which had been inserted by Act June 29, 1954.

Act June 29, 1954, authorized an additional $8,500,000 on and after July 1, 1954.

1952—Act July 14, 1952, authorized an additional $100,000,000 for fiscal year 1954.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 606 (d) of act Aug. 7, 1956, provided that amendment of this section and sections 1482 and 1483 of this title should take effect as of July 1, 1956.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1483, 1488 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1482. Contribution commitments.

In connection with loans made pursuant to section 1473 of this title, the Secretary is authorized to make commitments for contributions aggregating not to exceed $10,000,000 during the period beginning July 1, 1956, and ending October 1, 1969. (July 15, 1949, ch. 338, title V, § 512, 63 Stat. 438; July 14, 1952, ch. 723, § 11(b), 66 Stat. 604; June 29, 1954, ch. 410, § 5 (b), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, § 812 (b), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, § 501 (2), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, § 606(b), 70 Stat. 1114; June 30, 1961, Pub. L. 87–70, title VIII, § 801(c), 75 Stat. 186; Sept. 4, 1964, Pub. L. 88–560, title V, § 501(b), 78 Stat. 796; Aug. 10, 1965, Pub. L. 89–117, title X, § 1005(a), 79 Stat. 501.)

AMENDMENTS

1965—Pub. L. 89–117 substituted "October 1, 1969" for "September 30, 1965".

1964—Pub. L. 88–560 substituted "September 30, 1965" for "June 30, 1965."

1961—Pub. L. 87–70 substituted "June 30, 1965" for "June 30, 1961."

1956—Act Aug. 7, 1956, authorized commitments for contributions not to exceed $10,000,000 from July 1, 1956, to June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $2,000,000, on and after July 1, 1955.

1954—Act Aug. 2, 1954, substituted $2,000,000 for the authorization of $170,000 (available July 1, 1954) which had been inserted by act June 29, 1954.

Act June 29, 1954, provided an additional authorization available July 1, 1954.

1952—Act July 14, 1952, provided an additional authorization available July 1, 1953.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section effective as of July 1, 1956, see note set out under section 1481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1483. Appropriations.

There is authorized to be appropriated to the Secretary (a) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to (i) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 1473 of this title, and (ii) the interest due on a similar sum represented by notes or other obligations issued by the Secretary; (b) not to exceed $50,000,000 for grants pursuant to section 1474(a) of this title and loans pursuant to section 1474(b) of this title during the period beginning July 1, 1956, and ending October 1, 1973; (c) not to exceed $50,000,000 for financial assistance pursuant to section 1486 of this

title for the period ending October 1, 1973; (d) not to exceed $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title during the period beginning July 1, 1961, and ending October 1, 1973; (e) such further sums as may be necessary to enable the Secretary to carry out the provisions of this subchapter; and (f) such sums as may be required by the Secretary to administer the provisions of sections 1715z and 1715z-1 of Title 12. (July 15, 1949, ch. 338, title V, § 513, 63 Stat. 438; July 14, 1952, ch. 723, § 11(c), 66 Stat. 604; June 29, 1954, ch. 410, § 5(c), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, § 812(c), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, § 501(c), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, § 606(c), 70 Stat. 1115; June 30, 1961, Pub. L. 87-70, title VIII, §§ 801(c), 805(b), 75 Stat. 186, 188; Sept. 2, 1964, Pub. L. 88-560, title V, §§ 501(c), 503(b), 78 Stat. 796, 798; Aug. 10, 1965, Pub. L. 89-117, title X, § 1005(b), 79 Stat. 501; Aug. 1, 1968, Pub. L. 90-448, title X, § 1003, 82 Stat. 553; Sept. 30, 1969, Pub. L. 91-78, § 1, 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title IV, § 413(a), 83 Stat. 398.)

AMENDMENTS

1969—Pub. L. 91-152 substituted "October 1, 1973" for "January 1, 1970" wherever appearing.

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969" wherever appearing.

1968—Pub. L. 90-448 authorized appropriations of such sums as may be required to administer the provisions of sections 1715z and 1715z-1 of Title 12.

1965—Pub. L. 89-117 substituted "October 1, 1969" for "September 30, 1965" wherever appearing and "$50,000,000" for "$10,000,000" in clause (c) as the maximum allowable appropriation for financial assistance pursuant to section 1486 of this title.

1964—Pub. L. 88-560 substituted "September 30, 1965" for "June 30, 1965" wherever appearing, redesignated clauses (c) and (d) as (d) and (e), and added clause (c).

1961—Pub. L. 87-70 extended the period for grants and loans pursuant to section 1474 (a), (b) of this title from June 30, 1961, to June 30, 1965, and authorized appropriations of not more than $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title for the period beginning July 1, 1961, and ending June 30, 1965.

1956—Act Aug. 7, 1956, authorized $50,000,000 for grants and loans from July 1, 1956, to June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $10,000,000 on July 1, 1955.

1954—Act Aug. 2, 1954, substituted $10,000,000 for the authorization of $850,000 (available July 1, 1954) which had been authorized by act June 29, 1954.

Act June 29, 1954, authorized an appropriation of $850,000 to be available on July 1, 1954.

1952—Act July 14, 1952, authorized an appropriation of $10,000,000 to be available on July 1, 1953.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section effective July 1, 1956, see note set out under section 1481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1484, 1485 of this title; title 12 sections 84, 1717; title 38 section 1811.

§ 1484. Insurance of loans for housing and related facilities for domestic farm labor.

(a) Authorization; terms and conditions.

The Secretary is authorized to insure and make commitments to insure loans made by lenders other than the United States to the owner of any farm or any association of farmers for the purpose of providing housing and related facilities for domestic farm labor, or to any State (or political subdivision thereof), or any broad-based public or private nonprofit organization or any nonprofit organization of farmworkers incorporated within the State for the purpose of providing housing and related facilities for domestic farm labor any place within the State where a need exists. All such loans shall be made in accordance with terms and conditions substantially identical with those specified in section 1472 of this title, except that—

(1) no such loan shall be insured in an amount in excess of the value of the farm involved less any prior liens in the case of a loan to an individual owner of a farm, or the total estimated value of the structures and facilities with respect to which the loan is made in the case of any other loan;

(2) no such loan shall be insured if it bears interest at a rate in excess of 1 per centum per annum;

(3) out of interest payments by the borrower the Secretary shall retain a charge in an amount not less than one-half of 1 percentum per annum of the unpaid principal balance of the loan;

(4) the insurance contracts and agreements with respect to any loan may contain provisions for servicing the loan by the Secretary or by the lender, and for the purchase by the Secretary of the loan if it is not in default, on such terms and conditions as the Secretary may prescribe; and

(5) the Secretary may take mortgages creating a lien running to the United States for the benefit of the insurance fund referred to in subsection (b) of this section notwithstanding the fact that the note may be held by the lender or his assignee.

(b) Utilization of farm tenant mortgage insurance fund; additions to and deposits in fund; deposits in Treasury.

The Secretary shall utilize the insurance fund created by section 1005a of Title 7 and the provisions of section 1005c (a), (b), and (c) of Title 7 to discharge obligations under insurance contracts made pursuant to this section, and

(1) the Secretary may utilize the insurance fund to pay taxes, insurance, prior liens, and other expenses to protect the security for loans which have been insured hereunder and to acquire such security property at foreclosure sale or otherwise;

(2) the notes and security therefor acquired by the Secretary under insurance contracts made pursuant to this section shall become a part of the insurance fund. Loans insured under this section may be held in the fund and collected in accordance with their terms or may be sold and reinsured. All proceeds from such collections, including the liquidation of security and the proceeds of sales, shall become a part of the insurance fund; and

(3) of the charges retained by the Secretary out of interest payments by the borrower, amounts not less than one-half of 1 per centum per annum of the unpaid principal balance of the loan shall be deposited in and become a part of the insurance fund. The remainder of such charges shall be deposited in the Treasury of the United States

and shall be available for administrative expenses of the Farmers Home Administration, to be transferred annually to and become merged with any appropriation for such expenses.

(c) Insurance contract; obligation of the United States; incontestability.

Any contract of insurance executed by the Secretary under this section shall be an obligation of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

(d) Maximum obligations.

The aggregate amount of the principal obligations of the loans insured under this section shall not exceed $25,000,000 in any one fiscal year.

(e) Administrative expenses.

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section.

(f) Definitions.

As used in this section—

(1) the term "housing" means (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement; and

(2) the term "related facilities" means (A) new structures (including household furnishings) suitable for use as dining halls, community rooms or buildings, or infirmaries, or for other essential services facilities, and (B) existing structures (including household furnishings) which can be made suitable for the above uses by rehabilitation, alteration, conversion, or improvement and (C) land necessary for an adequate site; and

(3) the term "domestic farm labor" means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States and either (A) are citizens of the United States or (B) reside in the United States after being legally admitted for permanent residence therein.

(July 15, 1949, ch. 338, title V, § 514, as added June 30, 1961, Pub. L. 87–70, title VIII, § 804(a), 75 Stat. 186, and amended Sept. 2, 1964, Pub. L. 88–560, title V, § 502, 78 Stat. 796; Aug. 1, 1968, Pub. L. 90–448, title X, § 1004, 82 Stat. 553; Dec. 31, 1970, Pub. L. 91–609, title VIII, §§ 801(a)—(c), 84 Stat. 1805, 1806.)

REFERENCES IN TEXT

Section 1005a of Title 7 and section 1005c (a), (b), and (c) of Title 7, referred to in subsec. (b), were repealed by section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318 (set out as a note under section 1921 of Title 7, Agriculture), which also provides that references in other laws to the Bankhead-Jones Farm Tenant Act shall be construed as referring to appropriate provisions of chapter 50 of Title 7. See chapter 50 and particularly section 1929 of Title 7.

CODIFICATION

Another section 801(b) of Pub. L. 91–609 amended section 1460(c)(1) of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609, § 801(a), authorized insurance of loans to broad-based nonprofit organizations and nonprofit organizations of farmworkers incorporated within the State and provided for housing and related facilities for domestic farm labor any place within the State where need exists.

Subsec. (a)(2). Pub. L. 91–609, § 801(b), substituted "1" for "5" per centum.

Subsec. (f)(1), (2). Pub. L. 91–609, § 801(c), substituted "structures (including household furnishings)" for "structures" in cls. (A) and (B).

1968—Subsec. (f)(2). Pub. L. 90–448 included land necessary for an adequate site within the definition of "related facilities."

1964—Subsec. (f)(3). Pub. L. 88–560 included residents of the United States after being legally admitted for permanent residence.

CROSS REFERENCES

Agricultural Credit Insurance Fund as designation for farm tenant insurance fund, see section 1929 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1487 of this title; title 12 sections 84, 1717.

§ 1485. Housing and related facilities for elderly persons and families or other persons and families of low income.

(a) Direct loans; authorization; terms and conditions; revolving fund; appropriation.

The Secretary is authorized to make loans to private nonprofit corporations and consumer cooperatives to provide rental or cooperative housing and related facilities for elderly persons and elderly families of low or moderate income or other persons and families of low income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such loans shall bear interest at rates determined by the Secretary, not to exceed the maximum rate provided in section 1701q(a)(3) of Title 12; and

(3) such a loan may be made for a period of up to fifty years from the making of the loan.

There is authorized to be appropriated not to exceed $50,000,000, which shall constitute a revolving fund to be used by the Secretary in carrying out this subsection.

(b) Insurance of loans; authorization; terms and conditions; utilization of Agricultural Credit Insurance Fund expiration date.

The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, or partnership to provide rental or cooperative housing and related facilities for elderly persons and elderly families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed $750,000 or the development cost or the value of the security, whichever is least;

(2) such loans shall bear interest at rates determined by the Secretary, not to exceed the maximum rate provided in section 1709(b)(5) of Title 12;

(3) provide for complete amortization by periodic payments within such term as the Secretary may prescribe;

(4) for insuring such loans, the Secretary shall utilize the Agricultural Credit Insurance Fund subject to all the provisions of section 1929 of Title 7 and the second and third sentences of section 1928 of Title 7, including the authority in section 1929(f)(1) of Title 7 to utilize the insurance fund to make, sell, and insure loans which could be insured under this subsection; but the aggregate of the principal amounts of such loans made by the Secretary and not disposed of shall not exceed $10,000,000 outstanding at any one time; and the Secretary may take liens running to the United States though the notes may be held by other lenders; and

(5) no loan shall be insured under this subsection after October 1, 1973.

(c) Construction requirements.

No loan shall be made or insured under subsection (a) or (b) of this section unless the Secretary finds that the construction involved will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials.

(d) Definitions.

As used in this section—

(1) the term "housing" means new or existing housing suitable for dwelling use by occupants eligible under this section;

(2) the term "related facilities" includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

(3) the term "elderly persons" means persons who are 62 years of age or over; and the term "elderly families" means families the head of which (or his spouse) is 62 years of age or over; and

(4) the term "development cost" means the cost of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges approved by the Secretary. Such fees and charges may include payments to qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities.

(e) Administrative expenses.

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section. (July 15, 1949, ch. 338, title V, § 515, as added Sept. 28, 1962, Pub. L. 87–723, § 4(b), 76 Stat. 671, and amended June 30, 1964, Pub. L. 88–340, 78 Stat. 233; Sept. 2, 1964, Pub. L. 88–560, title V, § 501(d) 78 Stat. 796; Aug. 10, 1965, Pub. L. 89–117, title X, § 1005(c), 79 Stat. 501; Nov. 3, 1966, Pub. L. 89–754, title VIII, §§ 804, 805, 80 Stat. 1282; Sept. 30, 1969, Pub. L. 91–78, § 1, 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title IV, § 413(a), 83 Stat. 398; Dec. 31, 1970, Pub. L. 91–609, title VIII, § 803(c), 84 Stat. 1807.)

AMENDMENTS

1970—Subsec. (b)(1). Pub. L. 91–609 substituted "$750,000" for "$300,000".

1969—Subsec. (b)(5). Pub. L. 91–152 substituted "October 1, 1973" for "January 1, 1970".

Pub. L. 91–78 substituted "January 1, 1970" for "October 1, 1969".

1966—Subsec. (a). Pub. L. 89–754, §§ 804(a), 805(a), inserted "or other persons and families of low income" following "income" and substituted "rental or cooperative housing" for "rental housing", respectively.

Subsec. (b). Pub. L. 89–754, § 805(a), (b), substituted "rental or cooperative housing" for "rental housing" and inserted "or other persons and families of moderate income" following "families", respectively.

Subsec. (d)(1). Pub. L. 89–754, § 804(b), substituted in the definition of "housing" the words "occupants eligible under this section," for "elderly persons or elderly families."

Subsec. (d)(4). Pub. L. 89–754, § 805(c), defined fees and charges as used for purposes of "development cost" to include payments to qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities.

1965—Subsec. (b)(5). Pub. L. 89–117 substituted "October 1, 1969" for "September 30, 1965."

1964—Subsec. (b). Pub. L. 88–560 substituted "$300,000" for "$100,000" in cl. (1), and "1965" for "1964" in cl. (5).

Subsec. (b)(5). Pub. L. 88–340 substituted "September 30, 1964" for "June 30, 1964."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1486, 1487, 1488, 1490a of this title; title 12 sections 84, 1717.

§ 1486. Financial assistance to provide low-rent housing for domestic farm labor.

(a) Application; considerations.

Upon the application of any State or political subdivision thereof, or any broad-based public or private nonprofit organization incorporated within the State, or any nonprofit organization of farmworkers incorporated within the State, the Secretary is authorized to provide financial assistance for the provision of low-rent housing and related facilities (which may be located any place within the State) for domestic farm labor, if he finds that—

(1) the housing and related facilities for which financial assistance is requested will fulfill a pressing need in the area in which such housing and facilities will be located, and there is reasonable doubt that the same can be provided without financial assistance under this section;

(2) the applicant will contribute, from its own resources or from funds borrowed under section 1484 of this title or elsewhere, at least 10 per centum of the total development cost;

(3) the types of housing and related facilities to be provided are most practical, giving due consideration to the purposes to be served thereby and the needs of the occupants thereof, and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area; and

(4) the construction will be undertaken in an economical manner, and the housing and related facilities will not be of elaborate or extravagant design or material.

(b) Maximum amount of assistance.

The amount of any financial assistance provided under this section for low-rent housing and related facilities shall not exceed 90 per centum of the total development cost thereof, as determined by the Secretary, less such amount as the Secretary determines can be practicably obtained from other sources (including a loan under section 1484 of this title).

(c) Prerequisite agreements; rentals; safety and sanitation standards; priority of domestic farm labor.

No financial assistance for low-rent housing and related facilities shall be made available under this section unless, to any extent and for any periods required by the Secretary, the applicant agrees—

(1) that the rentals charged domestic farm labor shall not exceed such amounts as may be approved by the Secretary, giving due consideration to the income and earning capacity of the tenants, and the necessary costs of operating and maintaining such housing;

(2) that such housing shall be maintained at all times in a safe and sanitary condition in accordance with such standards as may be prescribed by State or local law, or, in the absence of such standards, in accordance with such minimum requirements as the Secretary shall prescribe; and

(3) an absolute priority will be given at all times in granting occupancy of such housing and facilities to domestic farm labor.

(d) Payments; contracts to specify uses of housing.

The Secretary may make payments pursuant to any contract for financial assistance under this section at such times and in such manner, as may be specified in the contract. In each contract, the Secretary shall include such covenants, conditions, or provisions as he deems necessary to insure that the housing and related facilities, for which financial assistance is made available, be used only in conformity with the provisions of this section.

(e) Regulations for prevention of waste.

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated.

(f) Wages; labor standards; waiver; authority and functions of Secretary.

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary which are undertaken by approved applicants under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not extend any financial assistance under this section for any project without first obtaining adequate assurance that these labor standards will be maintained on the construction work; except that compliance with such standards may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the person, corporation, association, organization, or other entity, undertaking the project. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of title 40.

(g) Definitions.

As used in this section—

(1) the term "low-rent housing" means rental housing within the financial reach of families of low income consisting of (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement;

(2) the terms "related facilities" and "domestic farm labor" shall have the meaning assigned to them in section 1484(f) of this title; and

(3) the term "development cost" shall have the meaning assigned to it in section 1485(d)(4) of this title.

(July 15, 1949, ch. 338, title V, § 516, as added Sept. 2, 1964, Pub. L. 88-560, title V, § 503(a), 78 Stat. 797, and amended Dec. 31, 1970, Pub. L. 91-609, title VIII, § 801(c), (d), 84 Stat. 1806.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (f), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (f), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609, § 801(d)(1), authorized financial assistance for broad-based nonprofit organizations incorporated within the State and nonprofit organizations of farmworkers incorporated within the State and provided for low-rent housing and related facilities "(which may be located within the State)".

Subsec. (a)(2). Pub. L. 91-609, § 801(d)(2), substituted "10 per centum" for "one-third".

Subsec. (a)(3). Pub. L. 91-609, § 801(d)(3), inserted ", and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area;".

Subsec. (b). Pub. L. 91-609, § 801(d)(4), substituted "90 per centum" for "two-thirds".

Subsec. (g)(1). Pub. L. 91-609, § 801(c), substituted "structures (including household furnishings)" for "structures" in cls. (A) and (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title; title 12 section 1717; title 20 section 244.

§ 1487. Rural Housing Insurance Fund.

(a) Authority to make and insure loans for housing and buildings on adequate farms; restrictions.

The Secretary may insure loans meeting the requirements of section 1472 of this title, and may make loans in accordance with the requirements of such section to be sold and insured; except that such loans shall—

(1) if the borrowers are persons of low or moderate income (as defined by the Secretary), (A) not exceed amounts necessary to provide adequate housing, modest in size, design, and cost (as determined by the Secretary, and (B) bear interest

at a rate not to exceed 5 per centum per annum; but no loan under this paragraph shall be insured or made after October 1, 1973, except pursuant to a commitment entered into before that date; and

(2) if the borrowers are persons other than those described in clause (1), bear interest and provide for insurance or service charges at rates comparable to the combined rate of interest and premium charges in effect under section 1709 of Title 12, as determined by the Secretary.

(b) Authority to make and insure loans for housing and related facilities for domestic farm labor and elderly persons.

The Secretary may insure loans in accordance with the requirements of sections 1484 of this title (exclusive of subsections (a)(3), (a)(5), and (b) thereof), 1485 of this title (exclusive of subsections (a) and (b)(4) thereof), and 1490d of this title, and may make loans meeting such requirements to be sold and insured. Upon the expiration of ninety days after the original capitalization of the Rural Housing Insurance Fund, created by subsection (e) of this section, no new loans shall be made or insured under section 1484 or 1485(b) of this title, except in conformity with this section.

(c) Use of funds from Rural Housing Insurance Fund for loans.

The Secretary may use the Rural Housing Insurance Fund for the purpose of making loans to be sold and insured under this section.

(d) Authority to insure payment of interest and principal; liens; assignability of notes evidencing loans.

The Secretary may, in conformity with subsections (a), (b), and (m) of this section, insure the payment of principal and interest as it becomes due on loans made by lenders other than the United States, and on loans made from or otherwise acquired by the Rural Housing Insurance Fund which are sold by the Secretary. Any contract of insurance executed by the Secretary hereunder shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or material misrepresentation of which the holder has actual knowledge. In connection with loans insured under this section, the Secretary may take liens running to the United States not withstanding the fact that the notes evidencing such loans may be held by lenders other than the United States. Notes evidencing such loans shall be freely assignable, but the Secretary shall not be bound by any such assignment until notice thereof is given to and acknowledged by him.

(e) Rural Housing Insurance Fund; creation; authorization of appropriations.

There is hereby created the Rural Housing Insurance Fund (hereinafter referred to as the "Fund") which shall be used by the Secretary as a revolving fund for carrying out the provisions of this section. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of the Fund.

(f) Investment of excess Fund moneys.

Money in the Fund not needed for current operations shall be invested in direct obligations of the United States or obligations guaranteed by the United States.

(g) Fund assets and liabilities; sale of loans; agreements for servicing and purchasing loans.

All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the Fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the Fund. Loans may be held in the Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof. The Secretary is authorized to make agreements with respect to servicing loans held or insured by him under this section and purchasing such insured loans on such terms and conditions as he may prescribe.

(h) Issuance of notes; form and denominations; interest rate; purchase by Secretary of the Treasury; debt transactions.

The Secretary is authorized to issue notes to the Secretary of the Treasury to obtain funds necessary for discharging obligations under this section and for authorized expenditures out of the Fund, but, except as may be authorized in appropriation Acts, not for the original or any additional capital of the Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each note shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note is issued, which are neither due nor callable for redemption for fifteen years from their date of issue. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act are extended to include purchases of notes issued by the Secretary. All redemption, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. The notes issued by the Secretary to the Secretary of the Treasury shall constitute obligations of the Fund.

(i) Retention of annual charge; administrative expenses; merger of funds.

The Secretary may retain out of interest payments by the borrower an annual charge in an amount specified in the insurance or sale agreement applicable to the loan. Of the charges retained by the Secretary, if any, not to exceed 1 per centum per annum of the unpaid balance of the loan shall be deposited in the Fund. Any retained charges not deposited in the Fund shall be available for administrative expenses in carrying out the provisions of this subchapter, to be transferred annually, and become merged with any appropriation for admin-

istrative expenses of the Farmers Home Administration, when and in such amounts as may be authorized in appropriation Acts.

(j) Additional uses of Fund moneys.

The Secretary may also utilize the Fund—

(1) to pay amounts to which the holder of the note is entitled in accordance with an insurance or sale agreement under this section accruing between the date of any prepayment by the borrower to the Secretary and the date of transmittal of any such prepayments to the holder of the note; and in the discretion of the Secretary, prepayments other than final payments need not be remitted to the holder until due;

(2) to pay the holder of any note insured under this section any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, or pursuant to a purchase agreement, the entire balance outstanding on the note; and

(3) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, and other expenses and advances to protect the security for loans which are insured under this section or held in the Fund, and to acquire such security property at foreclosure sale or otherwise.

(k) Sale of loans as sale of assets.

Any sale by the Secretary of loans individually or in blocks, pursuant to subsections (c) and (g) of this section, shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921, notwithstanding the fact that the Secretary, under an agreement with the purchaser, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser.

(*l*) Commitments to make or insure loans to lenders, builders, or sellers; terms and conditions.

The Secretary may also, upon the application of lenders, builders, or sellers and upon compliance with requirements specified by him, make commitments upon such terms and conditions as he shall prescribe to make or insure loans under this section to eligible applicants.

(m) Transfer of assets, liabilities, and authorizations of Rural Housing Direct Loan Account to Fund; abolition of Account; applicability of provisions.

The assets and liabilities of, and authorizations applicable to, the Rural Housing Direct Loan Account are hereby transferred to the Fund, and such Account is hereby abolished. Such assets and their proceeds, including loans made out of the Fund pursuant to this section, shall be subject to all of the provisions of this section. (July 15, 1949, ch. 338, title V, § 517, as added Aug. 10, 1965, Pub. L. 89–117, title X, § 1003(a), 79 Stat. 498, and amended Nov. 3, 1966, Pub. L. 89–754, title VII, § 806, 80 Stat. 1282; Sept. 3, 1969, Pub. L. 91–78, § 1, 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title IV, § 413(a)–(e)(2), (f)(2), 83 Stat. 398–400; Dec. 31, 1970, Pub. L. 91–609, title VIII, § 803(d), 84 Stat. 1807.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (h), is classified to sections 745, 752—754b, 757, 757b—757e, 758, 760, 764—766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

The Budget and Accounting Act, 1921, referred to in subsec. (k), is classified to section 1 et seq. of Title 31, Money and Finance.

AMENDMENTS

1970—Subsec. (j)(3). Pub. L. 91–609 authorized use of Fund moneys for expenses necessary to obtain credit reports on applicants or borrowers.

1969—Subsec. (a)(1). Pub. L. 91–152, § 413(a), substituted "October 1, 1973" for "January 1, 1970".

Pub. L. 91–78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (b). Pub. L. 91–152, § 413(f)(2), inserted reference to section 1490d of this title.

Subsec. (c). Pub. L. 91–152, § 413(b), struck out the provision which imposed a limit of not to exceed $100,000,000 on the aggregate amount of loans held by the Secretary at any one time.

Subsec. (d). Pub. L. 91–152, § 413(e)(2), inserted reference to subsec. (m) of this section, and added "or otherwise acquired by" following "loans made from".

Subsec. (k). Pub. L. 91–152, § 413(c), added subsec. (k).

Subsec. (*l*). Pub. L. 91–152, § 413(d), added subsec. (*l*).

Subsec. (m). Pub. L. 91–152, § 413(e)(1), added subsec. (m).

1966—Subsec. (a)(1). Pub. L. 89–754 substituted restriction against insurance or making of a loan under this par. after Oct. 1, 1969, except pursuant to a commitment entered into before that date for former clause (C) which provided that such loans shall not exceed in the aggregate of $300,000,000 of new loans made or insured in any one fiscal year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1490a of this title.

§ 1488. Repealed. Pub. L. 91–152, title IV, § 413(e)(3), Dec. 24, 1969, 83 Stat. 399.

Section, act July 15, 1949, ch. 338, title V, § 518, as added Aug. 10, 1965, Pub. L. 89–117, title X, § 1003(a), 79 Stat. 500, created the Rural Housing Direct Loan Account, set forth the composition of such Account, and authorized the issuance of notes to the Secretary of the Treasury.

§ 1489. Transfer of excess funds out of Rural Housing Insurance Fund.

Any sums in the Rural Housing Insurance Fund which the Secretary determines are in excess of amounts needed to meet the obligations and carry out the purposes of such Fund shall be returned to miscellaneous receipts of the Treasury. (July 15, 1949, ch. 338, title V, § 519, as added Aug. 10, 1965, Pub. L. 89–117, title X, § 1006, 79 Stat. 501, and amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 413(e)(4), 83 Stat. 399.)

AMENDMENTS

1969—Pub. L. 91–152 eliminated applicability of provisions to the Rural Housing Direct Loan Account.

§ 1490. Definitions.

As used in this subchapter, the terms "rural" and "rural area" mean any open country, or any place, town, village, or city which is not part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character. (July 15, 1949, ch. 338, title V, § 520, as added Aug. 10, 1965, Pub. L. 89–117, title X, § 1007, 79 Stat. 502, and amended Dec. 31, 1970, Pub. L. 91–609, title VIII, § 803(e), 84 Stat. 1806.)

AMENDMENTS

1970—Pub. L. 91–609 substituted as upper population limit "10,000" for "5,500".

§ 1490a. Loans to provide occupant-owned, rental, and cooperative housing for low and moderate income persons and families.

(a) Interest rates; determination that needs of applicant cannot be met with assistance from other sources.

Notwithstanding the provisions of sections 1472, 1487(a) and 1485 of this title, loans to persons of low or moderate income under section 1472 or 1487(a)(1) of this title, and loans under section 1485 of this title to provide rental or cooperative housing and related facilities for persons and families of low or moderate income or elderly persons and elderly families, shall bear interest at a rate prescribed by the Secretary at not less than a rate determined annually by the Secretary at not less than a rate determined annually by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum: *Provided,* That such a loan may be made only when the Secretary determines that the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under section 1715z or 1715z–1 of Title 12: *Provided further,* That interest on loans under section 1472 or 1478(a) of this title to victims of natural disaster shall not exceed the rate which would be applicable to such loans under section 1472 of this title without regard to this section.

(b) Location in rural areas; inclusion of qualified nonrural residents who will become rural residents.

Housing and related facilities provided with loans described in subsection (a) of this section shall be located in rural areas; and applicants eligible for such loans under section 1472 or 1487(a)(1) of this title, or for occupancy of housing provided with such loans under section 1485 of this title, shall include otherwise qualified nonrural residents who will become rural residents.

(c) Reimbursement of Rural Housing Insurance Fund.

There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a) of this section exceed interest due from the borrowers during each year; and the Secretary from time to time may issue notes to the Secretary of the Treasury under section 1487(h) of this title to obtain amounts equal to such unreimbursed excess payments, pending the annual reimbursement by appropriation. (July 15, 1949, ch. 338, title V, § 521, as added Aug. 1, 1968, Pub. L. 90–448, title X, § 1001, 82 Stat. 551.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1490c, 1490d of this title.

1490b. Housing for rural trainees.

(a) Authorization; financial and technical assistance; selection of training sites and location of housing.

Upon the application of any State or political subdivision thereof, or any public or private nonprofit organization, the Secretary is authorized, after consultation with the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, and the Director of the Office of Economic Opportunity, and after the Secretary determines that the housing and related facilities cannot reasonably be provided in any other way, to provide financial and technical assistance for the establishment, in rural areas, of housing and related facilities for trainees and their families who are residents of a rural area and have a rural background, while such trainees are enrolled and participating in training courses designed to improve their employment capability. The selection of training sites and location of housing shall be made with due regard to the economic viability of the area, and only after consideration of a labor area survey and full coordination among all Government agencies having primary responsibility for administering related programs.

(b) Quality of housing and related facilities; design and location.

Housing and related facilities assisted under this section shall be safe and sanitary, constructed in the most economical manner, and of modest design, giving due consideration to the purposes to be served and the needs of the occupants, and may, in the discretion of the Secretary, include mobile family quarters. Design and location shall be such as to facilitate, as feasible, the use of such housing and related facilities for other purposes when no longer needed for the primary purpose.

(c) Contribution of land by applicant.

The applicant shall contribute the necessary land, or funds to acquire such land, from its own resources, including land acquired by donation or from funds repayable under subsection (e) of this section or borrowed from other sources.

(d) Conditions precedent to grant of financial assistance.

No financial assistance shall be made available under this section unless, to the extent and for the periods required by the Secretary, the applicant agrees that—

(1) such housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State or local law, or, in the absence of such standards, with requirements prescribed by the Secretary;

(2) priority shall be given at all times; in granting occupancy of such housing and facilities, to the trainees and their families described in subsection (a) of this section; and

(3) rentals charged them shall not exceed amounts approved by the Secretary after considering the portion of the actual total family income which the family can afford to pay for rent while meeting its other immediate needs during occupancy.

(e) Advances; repayment; limitation on amount.

The Secretary may make advances pursuant to any contract for financial assistance under this section at such times and in such manner as may be specified in the contract. Such advances for the purchase of land shall be repayable with interest and within a period not to exeed thirty-three years and may be made upon such security, if any, as the Secretary requires. Advances for other purposes may be made repayable with or without interest or nonrepayable, as determined by the Secretary on the basis of the anticipated income, and cost of operation of the housing and related facilities and the ability of each applicant to finance such facilities. Any advances shall be limited to cover the capital costs of constructing such facilities, plus interest on borrowings to cover such costs.

(f) Sale of housing and related facilities to ineligible transferee or diversion to use other than primary purpose; repayment of advances; return of property to original condition.

Should housing and related facilities assisted pursuant to a contract under this section be sold to an ineligible transferee or diverted to a use other than its primary purpose within a period specified in the contract, all advances made under such contract shall be repaid to the Secretary, up to the amount of the sales price or the fair value of the property as determined by the Secretary, whichever is higher, with interest from the date of the sale or diversion. If no suitable alternate use of the property is available, as determined by the Secretary, after the purpose of this section can no longer be served, the property shall be returned to its original condition by the recipient of the assistance.

(g) Interest on advances.

Interest charged on advances made under this section shall be at a rate, prescribed by the Secretary, which shall be not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum, as determined by the Secretary.

(h) Regulations.

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated.

(i) Definitions.

As used in this section (1) the term "related facilities" shall include any necessary community rooms or buildings, infirmaries, utilities, access roads, water and sewer services, and the minimum fixed or movable equipment determined by the Secretary to be necessary to make the housing reasonably habitable by trainees and their families; and (2) the term "trainee" means any person receiving training under any federally assisted training program.

(j) Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out this section. (July 15, 1949, ch. 338, title V, § 522, as added Aug. 1, 1968, Pub. L. 90–448, title X, § 1002, 82 Stat. 551.)

§ 1490c. Mutual and self-help housing.

(a) Purpose.

The purposes of this section are (1) to make financial assistance available on reasonable terms and conditions in rural areas and small towns to needy low-income individuals and their families who, with the benefit of technical assistance and overall guidance and supervision, participate in approved programs of mutual or self-help housing by acquiring and developing necessary land, acquiring building materials, providing their own labor, and working cooperatively with others for the provision of decent, safe, and sanitary dwellings for themselves, their families, and others in the area or town involved, and (2) to facilitate the efforts of both public and private nonprofit organizations providing assistance to such individuals to contribute their technical and supervisory skills toward more effective and comprehensive programs of mutual or self-help housing in rural areas and small towns wherever necessary.

(b) Contract authority; establishment of Self-Help Housing Land Development Fund; authorization to make loans; conditions of loan.

In order to carry out the purposes of this section, the Secretary of Agriculture (in this section referred to as the "Secretary") is authorized—

(1) (A) to make grants to, or contract with, public or private nonprofit corporations, agencies, institutions, organizations, and other associations approved by him, to pay part or all of the costs of developing, conducting, administering, or coordinating effective and comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and their families in carrying out mutual or self-help housing efforts; and

(B) to establish the Self-Help Housing Land Development Fund, referred to herein as the Self-Help Fund, to be used by the Secretary as a revolving fund for making loans, on such terms and conditions and in such amounts as he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, and cooperatives eligible for assistance under section 1715z or 1715z–1 of Title 12 or section 1490a of this title. Such a loan, with interest at a rate not to exceed 3 percent per annum, shall be repaid within a period not to exceed two years from the making of the loan, or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes hereof; and

(2) to make loans, on such terms and conditions and in such amounts as he deems necessary, to needy low-income individuals participating in programs of mutual or self-help housing approved by him, for the acquisition and development of land and for the purchase of such other building materials as may be necessary in order to enable them, by providing substantially all of their own labor, and by cooperating with others participating in such programs, to carry out to completion

the construction of decent, safe, and sanitary dwellings for such individuals and their families, subject to the following limitations:

(A) there is reasonable assurance of repayment of the loan;

(B) the amount of the loan, together with other funds which may be available, is adequate to achieve the purpose for which the loan is made;

(C) the credit assistance is not otherwise available on like terms or conditions from private sources or through other Federal, State, or local programs;

(D) the loan bears interest at a rate not to exceed 3 per centum per annum on the unpaid balance of principal, plus such additional charge, if any, toward covering other costs of the loan program as the Secretary may determine to be consistent with its purposes; and

(E) the loan is repayable within not more than thirty-three years.

(c) Considerations for financial assistance.

In determining whether to extend financial assistance under paragraph (1) or (2) of subsection (b) of this section, the Secretary shall take into consideration, among other factors, the suitability of the area within which construction will be carried out to the type of dwelling which can be provided under mutual or self-help housing programs, the extent to which the assistance will facilitate the provision of more decent, safe, and sanitary housing conditions than presently exist in the area, the extent to which the assistance will be utilized efficiently and expeditiously, the extent to which the assistance will effect an increase in the standard of living of low-income individuals participating in the mutual or self-help housing program, and whether the assistance will fulfill a need in the area which is not otherwise being met through other programs, including those carried out by other Federal, State, or local agencies.

(d) Definition.

As used in this section, the term "construction" includes the erection of new dwellings, and the rehabilitation, alteration, conversion, or improvement of existing structures.

(e) Establishment of appropriate criteria and procedures for determining eligibility of applicants.

The Secretary is authorized to establish appropriate criteria and procedures in order to determine the eligibility of applicants for the financial assistance provided under this section, including criteria and procedures with respect to the periodic review of any construction carried out with such financial assistance.

(f) Authorization of appropriations; termination date.

There are hereby authorized to be appropriated for each fiscal year commencing after June 30, 1968, and ending prior to July 1, 1973, such sums, not in excess of $5,000,000 for any such fiscal, as may be necessary to carry out the provisions of this section. No grant or loan may be made or contract entered into under the authority of this section after June 30, 1973, except pursuant to a commitment or other obligation entered into pursant to this section before that date.

(g) Authorization of appropriations for purposes of subsection (b)(1)(B) of this section; deposit in Self-Help Fund; instruments and property acquired as assets of fund; deposit of repayments.

There are hereby authorized to be appropriated for the purposes of subsection (b) (1) (B) of this section not to exceed $1,000,000 for the fiscal year ending June 30, 1969, and not to exceed $2,000,000 for the fiscal year ending June 30, 1970. Any amount so authorized to be appropriated for any fiscal year which is not appropriated may be appropriated for any succeeding fiscal year or years. Amounts appropriated under this subsection shall be deposited in the Self-Help Fund, which shall be available without fiscal year limitation for making loans under subsection (b) (1) (B) of this section. Instruments and property acquired by the Secretary in or as a result of making such loans shall be assets of the Self-Help Fund. Sums received from the repayment of such loans shall be deposited in and be a part of the Self-Help Fund. (July 15, 1949, ch. 338, title V, § 523, as added Aug. 1, 1968, Pub. L. 90–448, title X, § 1005, 82 Stat. 553.)

§ 1490d. Loans to nonprofit organizations to provide building sites for eligible families, nonprofit organizations, and cooperatives; interest rates; factors determinative of making loan.

(a) The Secretary may make loans, on such terms and conditions and in such amounts as he deems necessary, to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, and cooperatives eligible for assistance under section 1715z or 1715z–1 of Title 12 or section 1490a of this title. Such a loan shall bear interest at a rate prescribed by the Secretary taking into consideration a rate determined annually by the Secretary of the Treasury as the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, and shall be repaid within a period not to exceed two years from the making of the loan or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes of this section.

(b) In determining whether to extend financial assistance under this section, the Secretary shall take into consideration, among other factors, (1) the suitability of the area to the types of dwellings which can feasibly be provided, and (2) the extent to which the assistance will (i) facilitate providing needed decent, safe, and sanitary housing, (ii) be utilized efficiently and expeditiously, and (iii) fulfill a need in the area which is not otherwise being met through other programs, including those being carried out by other Federal, State, or local agencies. (July 15, 1949, ch. 338, title V, § 524, as added Dec. 24, 1969, Pub. L. 91–152, title IV, § 413(f) (1), 83 Stat. 399.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1487 of this title.

Chapter 8B.—PUBLIC WORKS OR FACILITIES

Sec.
1491. Declaration of policy.
1492. Public projects.
(a) Purchase of securities or obligations; loans; payment of operating expenses.
(b) Restrictions and limitations; interest.
(c) Priority to applications of smaller municipalities.
(d) Loans for transportation facilities or equipment; termination date.
(e) Grants-in-aid to public entities to accelerate public works; restrictions and limitations.
(f) Assistance for cultural centers; restrictions and limitations.
1493. Notes and obligations; forms and denominations; maturities; terms and conditions; interest rate; revolving fund.
1494. Functions, powers and duties of Secretary; administrative expenses.
1495. Termination of authority to make loans under Reconstruction Finance Corporation Liquidation Act.
1496. Definition of "States".
1497. Technical advisory services in budgeting, financing, planning and construction of community facilities; appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred in title 12 section 1749d.

§ 1491. Declaration of policy.

It has been the policy of the Congress to assist wherever possible the States and their political subdivisions, and Indian tribes to provide the services and facilities essential to the health and welfare of the people of the United States.

The Congress finds that in many instances municipalities, or other political subdivisions of States, and Indian tribes, which seek to provide essential public works or facilities (including mass transportation facilities and equipment), are unable to raise the necessary funds at reasonable interest rates.

It is the purpose of this chapter (subject to the limitations contained herein) to authorize the extension of credit to assist in the provision of certain essential public works or facilities by States, municipalities, or other political subdivisions of States, and Indian tribes, where such credit is not otherwise available on reasonable terms and conditions. (Aug. 11, 1955, ch. 783, title II, § 201, 69 Stat. 642; June 30, 1961, Pub. L. 87–70, title V, § 501(a), 75 Stat. 173; Oct. 15, 1962, Pub. L. 87–808, § 1, 76 Stat. 920.)

AMENDMENTS

1962—Pub. L. 87–808 inserted "and Indian tribes" in three places.

1961—Pub. L. 87–70 inserted phrases "(including mass transportation facilities and equipment)" in the second paragraph, and "(subject to the limitations contained herein)" in the third paragraph.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1492. Public projects.

(a) Purchase of securities or obligations; loans; payment of operating expenses.

The Secretary of Housing and Urban Development is authorized (1) to purchase the securities and obligations of, or make loans to, municipalities and other political subdivisions and instrumentalities of one or more States (including public agencies and instrumentalities of one or more municipalities or other political subdivisions of one or more States), and Indian tribes to finance specific projects for public works or facilities under State, municipal, or other applicable law, and (2) to purchase the securities and obligations of, or make loans to, States, municipalities and other political subdivisions of States, public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States, and public corporations, boards, and commissions established under the laws of any State, to finance the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas, and for use in coordinating highway, bus, surface-rail, underground, parking and other transportation facilities in such areas. The facilities and equipment referred to in clause (2) may include land, but not public highways, and any other real or personal property needed for an economic efficient, and coordinated mass transportation system. No such purchase or loan shall be made for payment of ordinary governmental or non-project operating expenses.

(b) Restrictions and limitations; interest.

The powers granted in subsection (a) of this section shall be subject to the following restrictions and limitations:

(1) No financial assistance shall be extended under this section unless the financial assistance applied for is not otherwise available on reasonable terms, and all securities and obligations purchased and all loans made under this section shall be of such sound value or so secured as reasonably to assure retirement or repayment, and such loans may be made either directly or in cooperation with banks or other lending institutions through agreements to participate or by the purchase of participations or otherwise.

(2) No securities or obligations shall be purchased, and no loans shall be made, including renewals or extensions thereof, which have maturity dates in excess of forty years. Subject to such maximum maturity, the Secretary in his discretion may provide for the postponement of the payment of interest on not more than 50 per centum of any financial assistance extended to an applicant under this section for a period up to ten years where (A) such assistance does not exceed 50 per centum of the development cost of the project involved, and (B) it is determined by the Secretary that such applicant will experience above-average population growth and the project would contribute to orderly community development, economy, and efficiency; and any amounts so postponed shall be payable with interest in annual installments during the remaining maturity of such assistance.

(3) Financial assistance extended under this section shall bear interest at a rate determined by the Secretary which shall be not more than the higher of (A) 3 per centum per annum, or (B) the total of one-half of 1 per centum per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in section 1493(a) of this title.

(4)(A) No financial assistance shall be extended under clause (1) of subsection (a) of this section to any municipality or other political subdivision having a population of fifty thousand or more (one hundred fifty thousand or more in the case of a community situated in an area designated as a redevelopment area under the Area Redevelopment Act or any Act supplementary thereto, according to the most recent decennial census, or; (B) to any public agency or instrumentality serving one or more municipalities, political subdivisions, or unincorporated areas in one or more States, unless each municipality, political subdivision, or unincorporated area to be served by the specific public work or facility for which assistance is sought under this section has a population less than the applicable figure under clause (A) according to such census. This paragraph shall not apply to any financial assistance to be extended under subsection (a) of this section for the purpose of financing any project for public works or facilities (i) in a community in or near which is located a research or development installation of the National Aeronautics and Space Administration, or (ii) to be initiated or accelerated as the result of a grant-in-aid from an allocation made by the President under section 2642 of this title, or (iii) to be provided in connection with the establishment of a new community approved under section 1749cc-1 of Title 12 or under sections 3901 to 3914 of this title or under part B of the Urban Growth and New Community Development Act of 1970.

(c) Priority to applications of smaller municipalities.

In the processing of applications for financial assistance under clause (1) of subsection (a) of this section the Secretary shall give priority to applications of smaller municipalities for assistance in the construction of basic public works (including works for the storage, treatment, purification, or distribution of water; sewage, sewage treatment, and sewer facilities; and gas distribution systems) for which there is an urgent and vital public need. As used in this section, a "smaller municipality" means an incorporated or unincorporated town, or other political subdivision of a State, which had a population of less than ten thousand inhabitants at the time of the last Federal census, or an Indian tribe. Notwithstanding any other provision of this chapter, the Secretary may extend financial assistance, as otherwise authorized by clause (1) of subsection (a) of this section, to any private nonprofit corporation to finance the construction of works for the storage, treatment, purification, or distribution of water or the construction of sewage, sewage treatment, and sewer facilities, if such works or facilities are needed to serve a smaller municipality or rural area, and there is no existing public body able to construct and operate such works or facilities.

(d) Loans for transportation facilities or equipment; termination date.

No loans may be made for transportation facilities or equipment, pursuant to clause (2) of subsection (a) of this section, unless the Secretary determines (1) that there is being actively developed (or has been developed) for the urban or other metropolitan area served by the applicant a program, meeting criteria established by him, for the development of a comprehensive and coordinated mass transportation system; (2) that the proposed facilities or equipment can reasonably be expected to be required for such a system; and (3) if such program has not been completed, that there is an urgent need for the provision of the facilities or equipment to be commenced prior to the time that the program could reasonably be expected to be completed: *Provided,* That no such loan shall be made, except under a prior commitment, after June 30, 1963.

(e) Grants-in-aid to public entities to accelerate public works; restrictions and limitations.

The Secretary is authorized to make a grant-in-aid from any allocation made for such purpose by the President under section 2642 of this title to any public entity described in clause (1) of subsection (a) of this section of not to exceed 50 per centum of the cost of construction of any project for public works or facilities, if such project would be eligible (without regard to the restrictions and limitations of subsections (b) and (c) of this section) for financial assistance under clause (1) of subsection (a) of this section in accordance with the rules and regulations of the Secretary (as in effect on September 14, 1962) relating to the types of public works and facilities to which such assistance may be extended.

(f) Assistance for cultural centers; restrictions and limitations.

The restrictions and limitations set forth in subsection (c) of this section shall not apply to assistance to municipalities, other political subdivisions and instrumentalities of one or more States, and Indian tribes, for specific projects for cultural centers, including but not limited to, museums, art centers and galleries, and theaters and other physical facilities for the performing arts, which would be of cultural, educational, and informational value to the communities and areas where the centers would be located. (Aug. 11, 1955, ch. 783, title II, § 202, 69 Stat. 643; June 30, 1961, Pub. L. 87-70, title V, § 501 (b), (c), (d)(1), (e)-(g), 75 Stat. 173, 174; Sept. 5, 1962, Pub. L. 87-634, 76 Stat. 435; Sept. 14, 1962, Pub. L. 87-658, § 5, 76 Stat. 543; Oct. 15, 1962, Pub. L. 87-808, § 2, 76 Stat. 920; Oct. 15, 1962, Pub. L. 87-809, 76 Stat. 920; Sept. 2, 1964, Pub. L. 88-560, title VI, § 601, 78 Stat. 798; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1107, 79 Stat. 503; Nov. 3, 1966, Pub. L. 89-754, title IV, § 407, title X, § 1009, 80 Stat. 1273, 1286; May 25, 1967, Pub. L. 90-19, § 12 (b), (c), 81 Stat. 23; Aug. 1, 1968, Pub. L. 90-448, title IV, § 416(a), 82 Stat. 518; Dec. 31, 1970, Pub. L. 91-609, title VII, § 727(b), 84 Stat. 1802.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsec. (b)(4), is classified to chapter 28 and section 1464 of this title, section 696 of Title 15, Commerce and Trade, and section 461 of Title 40, Public Buildings, Property, and Works.

Section 2642 of this title, referred to in subsecs. (b)(4) and (e) of this section, was, in the original, "section 9 of the Public Works Acceleration Act." As introduced in the Senate on May 28, 1962, S. 2965 contained a section 9, however, subsequent amendments to S. 2965 prior to its enactment as Pub. L. 87-658 eliminated section 9 from the bill. Provisions in section 3 of Pub. L. 87-658 seem to be identical to those contained in section 9 of the original bill, and therefore, for purposes of classification, "section 9 of the Public Works Acceleration Act" has been translated as "section 2642 of this title", since this appears to be the intent of Congress.

Part B of the Urban Growth and New Community Development Act of 1970, referred to in subsec. (b)(4), is classified to section 4511 et seq. of this title.

AMENDMENTS

1970—Subsec. (b)(4). Pub. L. 91-609 provided for establishment of a new community approved under part B of the Urban Growth and New Community Development Act of 1970.

1968—Subsec. (b)(4). Pub. L. 90-448 made paragraph inapplicable to financial assistance extended for the purpose of financing any project for public works or facilities to be provided in connection with the establishment of a new community approved under sections 3901—3914 of this title.

1967—Pub. L. 90-19, § 12(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (b)(2), (3) and (c)—(e) of this section.

Subsec. (a). Pub. L. 90-19, § 12(c), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

1966—Subsec. (b)(4). Pub. L. 89-754, § 407, added item (iii) in the second sentence.

Subsec. (f). Pub. L. 89-754, § 1009, added subsec. (f).

1965—Subsec. (b)(4). Pub. L. 89-117, § 1107(b), removed the 150,000 population limit on the availability of public facilities loans to communities located in or near National Aeronautics and Space Administration research and development installations, making such loans available to such communities without regard to population.

Subsec. (c). Pub. L. 89-117, § 1107(a), authorized the extending of financial assistance to private nonprofit corporations for the construction of sewer and water works needed to serve a smaller municipality or rural area if there are no existing public bodies to construct the needed facilities.

1964—Subsec. (a). Pub. L. 88-560, § 601(a), substituted "instrumentalities of one or more States" for "instrumentalities of States", and "of one or more States" for "in the same State."

Subsec. (b)(4). Pub. L. 88-560, § 601(b)(1), (2), inserted "(A)" preceding "to any municipality", and substituted "2504 of this title" for "2504(a) of this title", and "; (B) to any public agency or instrumentality serving one or more municipalities, political subdivisions, or unincorporated areas in one or more States, unless each municipality, political subdivision, or unincorporated area to be served by the specific public work or facility for which assistance is sought under this section has a population less than the applicable figure under clause (A) according to such census" for ", or to any public agency or instrumentality of one or more municipalities or other political subdivisions having a population (or an aggregate population) equal to or exceeding that figure according to such census. This paragraph shall not apply to any financial assistance to be extended under subsection (a) of this section for the purpose of financing any project for public works or facilities to be initiated or accelerated as the result of a grant-in-aid from an allocation made by the President under section 2642 of this title."

1962—Subsec. (a). Pub. L. 87-808 inserted "and Indian tribes."

Subsec. (b)(4). Pub. L. 87-658, § 5(a), provided that this paragraph shall not apply to assistance under subsec. (a) of this section for the purpose of financing any project to be started or accelerated as a result of a grant-in-aid under section 2642 of this title.

Pub. L. 87-634 prohibited financial assistance under subsec. (a)(1) of this section to a community with a population of 150,000 or more in or near which is located a research or development installation of the National Aeronautics and Space Administration.

Subsec. (c). Pub. L. 87-808 inserted ", or an Indian tribe."

Subsec. (d). Pub. L. 87-809 substituted "June 30, 1963" for "December 31, 1962."

Subsec. (e). Pub. L. 87-658, § 5(b), added subsec. (e).

1961—Subsec. (a). Pub. L. 87-70, § 501(b), eliminated provisions which required the Administrator to act through the Community Facilities Administration, inserted cl. (1), substituted "to finance the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas, and for use in coordinating highway, bus, surface-rail, underground, parking and other transportation facilities in such areas" for "to finance specific public projects under State or municipal law" in cl. (2), and inserted sentence which authorize facilities and equipment referred to in cl. (2) to include land, but not public highways, and any other real or personal property needed for an economic, efficient, and coordinated mass transportation system.

Subsec. (b)(2). Pub. L. 87-70, § 501(c), empowered the Administrator, subject to the maximum maturity, to provide for the postponement of the payment of interest on not more than 50 per centum of any financial assistance under this section for a period up to ten years where such assistance does not exceed 50 per centum of the development cost and it is determined that the applicant will experience above-average population growth and the project would contribute to orderly community development, economy, and efficiency.

Subsec. (b)(3). Pub. L. 87-70, § 501 (d)(1), added subsec. (b)(3).

Subsec. (b)(4). Pub. L. 87-70, § 501(e), added subsec. (b)(4).

Subsec. (c). Pub. L. 87-70, § 501(f), substituted "under clause (1) of subsection (a) of this section" for "under this section."

Subsec. (d). Pub. L. 87-70, § 501(g), added subsec. (d).

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1493 of this title; title 49 section 1602.

§ 1493. Notes and obligations; forms and denominations; maturities; terms and conditions; interest rate; revolving fund.

(a) In order to finance activities under this chapter, the Secretary is authorized and empowered to issue to the Secretary of the Treasury, from time to time and to have outstanding at any one time, notes and other obligations in an amount not to exceed $650,000,000: *Provided,* That, of the funds obtained through the issuance of such notes and other obligations, $600,000,000 shall be available only for purchases and loans pursuant to clause (1) of section 1492(a) of this title and $50,000,000 shall be available only for purchases and loans pursuant to clause (2) of such section. Such obligations shall be

in such forms and denominations, have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury which shall be not more than the higher of (1) 2½ per centum per annnum, or (2) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Secretary and adjusted to the nearest one-eighth of 1 per centum. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary to be issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) Funds borrowed under this section and any proceeds shall constitute a revolving fund which may be used by the Secretary in the exercise of his functions under this chapter. (Aug. 11, 1955, ch. 783, title II, § 203, 69 Stat. 643; Sept. 14, 1960, Pub. L. 86–788, § 2(c), 74 Stat. 1028; June 30, 1961, Pub. L. 87–70, title V, § 501 (d)(2), (h), (j), 75 Stat. 174, 175; May 25, 1967, Pub. L. 90–19, § 12(b), 81 Stat. 23.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (a), is Act Sept. 24, 1917, ch. 56, 40 Stat. 288 as amended, which was classified to sections 745, 752–754b, 757, 757b, 757c–757e, 758, 760, 764–766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1961—Subsec. (a). Pub. L. 87–70, § 501 (d)(2), (h), increased the maximum amount of notes and other obligations that may be outstanding at any one time from $150,000,000 to $650,000,000, restricted use of $600,000,000 for purchases and loans pursuant to cl. (1) of section 1492(a) of this title and $50,000,000 for purchases and loans pursuant to cl. (2) of such section, and substituted "a rate determined by the Secretary of the Treasury which shall be not more than the higher of (1) 2½ per centum per annum, or (2) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Administrator and adjusted to the nearest one-eighth of 1 per centum" for "a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of such notes or other obligations."

Subsec. (d). Pub. L. 87–70, § 501(j), substituted "which may be used" for "which may used."

1960—Subsec. (a). Pub. L. 86–788 substituted "$150,000,000" for "$100,000,000."

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title; title 49 section 1602.

§ 1494. Functions, powers and duties of Secretary; administrative expenses.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 1749a of Title 12, except subsection (c) (2) of such section. Funds obtained or held by the Secretary in connection with the performance of his functions under this chapter shall be available for the administrative expenses of the Secretary in connection with the performance of such functions. (Aug. 11, 1955, ch. 783, title II, § 204, 69 Stat. 644; May 25, 1967, Pub. L. 90–19, § 12(b), 81 Stat. 23.)

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1495. Termination of authority to make loans under Reconstruction Finance Corporation Liquidation Act.

CODIFICATION

Section, act Aug. 11, 1955, ch. 783, title II, § 205, 69 Stat. 644, prohibited the making of loans under section 459 of Title 40 after August 11, 1955, except pursuant to an application for such loan filed prior to such date, and has been omitted as executed.

§ 1496. Definition of "States."

As used in this chapter, the term "States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Territories and possessions of the United States. (Aug. 11, 1955, ch. 783, title II, § 206, as added Aug. 7, 1956, ch. 1029, title VI, § 603, 70 Stat. 1114, and amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 403(b), 83 Stat. 395.)

AMENDMENTS

1969—Pub. L. 91–152 inserted reference to the Trust Territory of the Pacific Islands.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1497. Technical advisory services in budgeting, financing, planning and construction of community facilities; appropriations.

The Secretary is authorized to establish technical advisory services to assist municipalities and other political subdivisions and instrumentalities, and Indian tribes in the budgeting, financing, planning, and construction of community facilities. There are authorized to be appropriated such sums as may be necessary, together with any fees that may be charged, to cover the cost of such services. (Aug. 11, 1955, ch. 783, title II, § 207, as added June 30, 1961, Pub. L. 87–70, title V, § 501(i), 75 Stat. 175, and amended Oct. 15, 1962, Pub. L. 87–808, § 3, 76 Stat. 920; May 25, 1967, Pub. L. 90–19, § 12 (b), 81 Stat. 23.)

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator".

1962—Pub. L. 87–808 inserted ", and Indian tribes."

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Develment and of the Secretary of Housing and Urban Development and agencies and officers thereof under this chapter incidental to or necessary for the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968 insofar as functions hereunder involve assistance specifically authorized for mass transportation facilities or equipment, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 8C.—OPEN-SPACE LAND

Sec.
1500. Congressional declaration of findings and purpose.
1500a. Grants to States and local public bodies for acquisition and for development of open-space land.
(a) Authorization; limitation on amount of grant; limitation on donations for non-Federal share.
(b) Restrictions on use of grants.
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(e) Technical assistance.
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1500c–1. Conversions of land involving historic or architectural purposes.
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1500c–3. Labor standards.
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1500d–1. Definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 460*ll*.

§ 1500. Congressional declaration of findings and purpose.

(a) The Congress finds that the rapid expansion of the Nation's urban areas and the rapid growth of the population within such areas has resulted in severe problems of urban and suburban living for the preponderant majority of the Nation's present and future population, including the lack of valuable open-space land for recreational and other purposes.

(b) The Congress further finds that there is a need for the additional provision of parks and other open space in the built-up portions of urban areas especially in low income neighborhoods and communities and a need for greater and better coordinated State and local efforts to make available and improve open-space land throughout entire urban areas.

(c) The Congress further finds that there is a need for timely action to preserve and restore areas, sites, and structures of historic or architectural value in order that these remaining evidences of our history and heritage shall not be lost or destroyed through the expansion and development of the Nation's urban areas.

(d) It is the purpose of this chapter to help curb urban sprawl and prevent the spread of urban blight and deterioration, to encourage more economic and desirable urban development, to assist in preserving areas and properties of historic or architectural value, and to help provide necessary recreational, conservation, and scenic areas by assisting State and local public bodies in taking prompt action to (1) provide, preserve, and develop open-space land in a manner consistent with the planned long-range development of the Nation's urban areas, (2) acquire, improve, and restore areas, sites, and structures of historic or architectural value, and (3) develop and improve open space and other public urban land, in accordance with programs to encourage and coordinate local public and private efforts toward this end. (Pub. L. 87–70, title VII, § 701, June 30, 1961, 75 Stat. 183; Pub. L 89–117, title IX, § 901 (b), (c), Aug. 10, 1965, 79 Stat. 494; Pub. L. 89–754, title VI, § 605 (b), (c), Nov. 3, 1966, 80 Stat. 1279; Pub. L. 91–609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1781)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609 substituted "the rapid expansion of the Nation's urban areas and the rapid growth of population within such areas has resulted in severe problems of urban and suburban living for the preponderant majority of the Nation's present and future population, including the lack of valuable open-space land for recreational and other purposes" for "a combination of economic, social, governmental, and technological forces have caused a rapid expansion of the Nation's urban areas, which has created critical problems of service and finance for all levels of government and which, combined with a rapid population growth in such areas, threatens severe problems of urban and suburban living, including the loss of valuable open-space land in such areas, for the preponderant majority of the Nation's present and future population."

Subsec. (b). Pub. L. 91–609 substituted "a need for the additional provision of parks and other open space in the built-up portions of urban areas especially in low income neighborhoods and communities and a need for greater and better coordinated State and local efforts to make available and improve open-space land throughout entire urban areas" for "an urgent need both for the additional provision of parks and other open-space areas in

the developed portions of the Nation's urban areas and for greater and better coordinated local efforts to beautify and improve open space and other public land throughout urban areas to facilitate their increased use and enjoyment by the Nation's urban population".

Subsec. (c). Pub. L. 91–609 deleted "past" from "past history and heritage".

Subsec. (d). Pub. L. 91–609 substituted "local public bodies" for "local governments", cl. (1) provision "open-space land in a manner consistent with the planned long-range development of the Nation's urban areas" for "open-space land which is essential to the proper long-range development and welfare of the Nation's urban areas, in accordance with plans for the allocation of such land for open-space uses", and cl. (3) term "develop" for "beautify".

1966—Subsec. (c). Pub. L. 89–754, § 605(b), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89–754, § 605(b), (c), redesignated former subsec. (c) as (d), and stated an additional purpose of this chapter to be to assist in preserving areas and properties of historic or architectural value, added cl. (2), and redesignated former cl. (2) as (3), respectively.

1965—Subsec. (b). Pub. L. 89–117, § 901(b), redesignated former subsec. (b) as subsec. (c) and added subsec. (b).

Subsec. (c). Pub. L. 89–117, § 901 (b), (c), redesignated former subsec. (b) as subsec. (c) and, in subsec. (c) as so redesignated, substituted "(1) provide, preserve, and develop" for "preserve" and "uses, and (2) beautify and improve open space and other public urban land, in accordance with programs to encourage and co-ordinate local public and private efforts toward this end" for "purposes".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 401 of Pub. L. 91–609 provided in part that amendment of this chapter by section 401 of Pub. L. 91–609, shall be effective July 1, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

§ 1500a. Grants to States and local public bodies for acquisition and for development of open-space land.

(a) Authorization; limitation on amount of grant; limitation on donations for non-Federal share.

The Secretary is authorized to make grants to States and local public bodies to help finance (1) the acquisition of title to, or other interest in, open-space land in urban areas and (2) the development of open-space or other land in urban areas for open-space uses. The amount of any such grant shall not exceed 50 per centum of the eligible project cost, as approved by the Secretary, of such acquisition or development. Not more than 50 per centum of the non-Federal share of such eligible project cost may, to the extent authorized in regulations established by the Secretary, be made up by donations of land or materials.

(b) Restrictions on use of grants.

No grants under this chapter shall be made to (1) defray ordinary State or local governmental expenses, (2) help finance the acquisition by a public body of land located outside the urban area for which it exercises (or participates in the exercise of) responsibilities consistent with the purpose of this chapter, (3) acquire and clear developed land in built-up urban areas unless the local governing body determines that adequate open-space land cannot be effectively provided through the use of existing undeveloped land, or (4) provide assistance for historic and architectural preservation purposes, except for districts, sites, buildings, structures, and objects which the Secretary of the Interior determines meet the criteria used in establishing the National Register.

(c) Determination of further terms and conditions for assistance.

The Secretary may set such further terms and conditions for assistance under this chapter as he determines to be desirable.

(d) Review of applications; consultation with Secretary of the Interior; exchange of information.

The Secretary shall consult with the Secretary of the Interior on the general policies to be followed in reviewing applications for grants under this chapter. To assist the Secretary in such review, the Secretary of the Interior shall furnish him (1) appropriate information on the status of national and statewide recreation and historic preservation planning as it affects the areas to be assisted with such grants, and (2) the current listing of any districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture which may be contained on a National Register maintained by the Secretary of the Interior pursuant to other provisions of law. The Secretary shall provide current information to the Secretary of the Interior from time to time on significant program developments.

(e) Technical assistance.

The Secretary may provide such technical assistance to States and local public bodies as may be required to effectively carry out activities under this section. (Pub. L. 87–70, title VII, § 702, June 30, 1961, 75 Stat. 184; Pub. L. 88–560, title X, § 1001, Sept 2, 1964, 78 Stat. 806; Pub. L 89–117, title IX, §§ 902(a), (b), 903, 904, 909(b), (c), Aug 10, 1965, 79 Stat. 495, 497; Pub. L. 89–754, title VI, § 605(d), Nov. 3, 1966, 80 Stat. 1279; Pub. L. 90–19, § 18(c), (d), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title VI, § 606(a), Aug. 1, 1968, 82 Stat. 534; Pub. L. 91–152, title III, § 303, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1781.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609 in revising the provisions deleted "to enter into contracts" preceding "to make grants", substituted "help finance (1) the acquisition of title to, or other interest in, open-space land in urban areas and (2) the development of open-space or other land in urban areas for open-space uses" for "help finance the acquisition of title to, or other permanent interests in, such land, and the development, for open-space uses, of land acquired under this chapter", prescribed limitation on donations for non-Federal share, and deleted full faith and credit provision respecting Federal pledging for payment of grants.

Subsec. (b). Pub. L. 91–609 redesignated former subsec. (c) as (b), inserted numbered designations, and added items (3) and (4). Former subsec. (b) authorization of appropriation provisions for $310,000,000 prior to July 1, 1969, and $460,000,000 prior to July 1, 1971, are now covered by section 1500d of this title.

Subsec. (c). Pub. L. 91–609 redesignated former subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub L 91–609 redesignated former subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 91–609 incorporated technical assistance provisions of former section 1500d(a) of this title. Former subsec. (e) redesignated (d).

1969—Subsec. (b). Pub. L. 91–152 substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (b). Pub. L. 90–448 authorized appropriations of not more than $460,000,000 prior to July 1, 1970, and eliminated provisions which permitted the Secretary to contract to make grants under section 1500c–1 of this title aggregating not more than $64,000,000, and grants under section 1500c–2 of this title aggregating not more than $36,000,000.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (b), and (d) of this section.

Subsec. (a). Pub. L. 90–19 substituted "Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary')" for "Housing and Home Finance Administrator (hereinafter referred to as the 'Administrator')".

1966—Subsec. (e). Pub. L. 89–754 substituted "Secretary" for "Administrator" wherever appearing, designated existing provisions as cl. (1), substituted therein "national and statewide recreation and historic preservation planning as it affects the areas to be assisted with such grants" for "recreational planning for the areas to be assisted with the grants", and added cl. (2).

1965—Subsec. (a). Pub. L. 89–117, §§ 902(a), 903, 909(b), inserted development of open space land as one of the purposes for which grants were to be made, added the development, for open space uses, of land acquired under this chapter as one of the uses to which granted funds could be put, raised from 20 percent to 50 percent of total cost the maximum grant allowable, removed the proviso increasing the maximum grant to 30 percent in the case of a grant to a public body exercising open space responsibility for all or a substantial part of the urban area, and struck out requirement that local public bodies to which funds were granted be acceptable to the Administrator as capable of carrying out the provisions of the chapter.

Subsec. (b). Pub. L. 89–117, § 904, substituted "$310,000,000" for "$75,000,000" and added proviso that, of that sum, no more than $64,000,000 could be for grants under section 1500c–1 of this title and no more than $36,000,000 could be for grants under section 1500c–2 of this title.

Subsec. (c). Pub. L. 89–117, § 902(b), removed development costs from the list of uses to which grants may not be put.

Subsec. (e). Pub. L. 89–117, § 909(c), substituted "assisted" for "served by the open-space land acquired".

1964—Subsec. (b). Pub. L. 88–560, substituted "$75,000,000" for "$50,000,000", and inserted "All funds so appropriated shall remain available until expended."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–609 effective July 1, 1971, see section 401 of Pub. L. 91–609, set out in part as a note under section 1500 of this title.

PLANNING AND ACQUISITION OF LAND

Coordinating planning and acquisition of land under outdoor recreation and open space programs, see Ex. Ord. No. 11237, July 27, 1965, 30 F.R. 9433, set out as a note under section 460*l*–8 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1500b, 1500c, 3914 of this title.

§ 1500b. Planning requirements.

The Secretary shall make grants under section 1500a of this title only if he finds that such assistance is needed for carrying out a unified, or officially coordinated program, meeting criteria established by him, for the provision and development of open-space land which is a part of, or is consistent with, the comprehensively planned development of the urban area. (Pub. L. 87–70, title VII, § 703, June 30, 1961, 75 Stat. 184; Pub. L 89–117, title IX, § 905, Aug 10, 1965, 79 Stat. 495; Pub. L. 90–19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L 91–609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1782.)

AMENDMENTS

1970—Pub. L. 91–609 eliminated subsec. (a) designation for existing provisions, substituted "shall make grants under section 1500a of this title" for "shall enter into contracts to make grants under sections 1500a and 1500c–1 of this title", inserted "which is a part of, or is consistent with," preceding "the comprehensively planned development", and deleted subsec. (b) provisions for the taking of such action by the Secretary as to assure that local governing bodies are preserving maximum open-space land, with minimum of cost, through use of existing public land, use of special tax, zoning, and subdivision provisions, and continuation of appropriate private use of open-space land through acquisition of leaseback, acquisition of restrictive easements, and other available means.

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1965—Subsec. (a). Pub. L. 89–117 substituted provisions which required that, for grants under sections 1500a and 1500c–1 of this title, there be a unified or officially coordinated program for the provision and development of open-space land as part of the comprehensively planned development of the urban area for provisions which required only that, for grants for acquisition of land under the entire chapter, the use of the land for permanent open space be important and which limited the definition of comprehensive planning to the definition found in section 461(d) of Title 40.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–609 effective July 1, 1971, see section 401 of Pub. L. 91–609, set out in part as a note under section 1500 of this title.

PLANNING AND ACQUISITION OF LAND

Coordinating planning and acquisition of land under outdoor recreation and open space programs, see Ex. Ord. No. 11237, July 27, 1965, 30 F.R. 9433, set out as a note under section 460*l*–8 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title

§ 1500c. Conversions to other uses.

No open-space land for the acquisition of which a grant has been made under section 1500a of this title shall be converted to uses not originally approved by the Secretary without his prior approval. Prior approval will be granted only upon satisfactory compliance with regulations established by the Secretary. Such regulations shall require findings that (1) there is adequate assurance of the substitution of other open-space land of as nearly as feasible equivalent usefulness, location, and fair market value at the time of the conversion; (2) the conversion and substitution are needed for orderly growth and development; and (3) the proposed uses of the converted and substituted land are in accord with the then applicable comprehensive plan for the urban area, meeting criteria established by the Secretary. (Pub. L. 87–70, title VII, § 704, June 30, 1961, 75 Stat. 185; Pub. L 89–117, title IX, § 909(d), Aug 10, 1965, 79 Stat. 497; Pub. L. 90–19, § 18(c), May 25, 1967, 81 Stat 25; Pub. L. 91–609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1782.)

AMENDMENTS

1970—Pub. L. 91–609 in revising the text substituted "section 1500a of this title" for "this chapter" and provisions for satisfactory compliance with certain findings prescribed by regulations for prior similar statutory provisions.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

1965—Pub. L. 89-117 limited the prohibition against conversion without the Administrator's approval by providing that such prohibition applied only to lands acquired with grant funds under this chapter.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as a note under section 1500 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

§ 1500c-1. Conversions of land involving historic or architectural purposes.

No open-space land involving historic or architectural purposes for which assistance has been granted under this chapter shall be converted to use for any other purpose without the prior approval of the Secretary of the Interior. (Pub. L. 87-70, title VII, § 705, as added Pub. L. 89-117, title IX, § 906, Aug. 10, 1965, 79 Stat. 496, and amended Pub. L. 90-19, § 18 (c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1782.)

AMENDMENTS

1970—Pub. L. 91-609 substituted requirement of Secretary's approval of conversions of land involving historic or architectural purposes for prior provisions for grants, for provision of open-space land in built-up urban areas, now covered in section 1500a(a) of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as a note under section 1500 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

§ 1500c-2. Acquisition of interests to guide urban development.

In order to encourage the acquisition of interests in undeveloped or predominantly undeveloped land which, if withheld from commercial, industrial, and residential development, would have special significance in helping to shape economic and desirable patterns of urban growth (including growth outside of existing urban areas which is directly related to the development of new communities or the expansion and revitalization of existing communities), the Secretary may make grants to State and local public bodies for the acquisition of such interests in an amount not to exceed 75 per centum of the cost of such acquisition. In the case of any interests acquired pursuant to this section, the Secretary may approve the subsequent conversion or disposition of the land involved without regard to other requirements of this chapter but subject to such terms and conditions as he determines equitable and appropriate with respect to the control of future use and the application or sharing of the proceeds or value realized upon sale or disposition. (Pub. L. 87-70, title VII, § 706, as added Pub. L. 89-117, title IX, § 906, Aug. 10, 1965, 79 Stat. 496, and amended Pub. L. 89-754, title VI, § 605(e), Nov. 3, 1966, 80 Stat. 1280; Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783.)

AMENDMENTS

1970—Pub. L. 91-609 substituted provisions for acquisition of interests to guide urban development, for prior provisions for grants for urban beautification and improvement, now covered in section 1500a(a) of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

1966—Pub. L. 89-754 struck out proviso which authorized the Administrator to use not to exceed $5,000,000 of the sum authorized for contracts under this section for the purpose of entering into contracts to make grants in amounts not to exceed 90 per centum of the cost of activities which he determined had special value in developing and demonstrating new and improved methods and materials for use in carrying out the purposes of this section, now covered by section 1500d(c) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as a note under section 1500 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

§ 1500-3. Labor standards.

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of grants under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not approve any such grant without first obtaining adequate assurance that these labor standards will be maintained upon the construction work.

(b) The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a) of this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267, and section 276c of Title 40. (Pub. L. 87-70, title VII, § 707, as added Pub. L. 89-117, title IX, § 907, Aug. 10, 1965, 79 Stat. 496, and amended Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Pub. L. 91-609 reenacted provisions without change.

1967—Subsec. (a). Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as a note under section 1500 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

§ 1500d. Authorization of appropriations.

There are authorized to be appropriated for purposes of making grants under this chapter not to exceed $560,000,000 prior to July 1, 1972. Any amounts appropriated under this section shall remain available until expended. (Pub. L. 87-70, title VII, § 708,

formerly § 705, June 30, 1961, 75 Stat. 185, renumbered and amended Pub. L. 89-117, title IX, §§ 906, 908, Aug. 10, 1965, 79 Stat. 495, 497; Pub. L. 89-754, title VI, § 605(f), Nov. 3, 1966, 80 Stat. 1280; Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title VI, § 606(b), Aug. 1, 1968, 82 Stat. 534; Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1783.)

AMENDMENTS

1970—Pub. L. 91-609 substituted authorization of appropriations provisions (formerly covered in former section 1500a(b) of this title) for former subsecs. (a)-(c) relating to technical assistance, studies, and publication of information, now covered in section 1500a(e) of this title and sections 1701z—1 to 1701z—4 of Title 12.

1968—Subsec. (b). Pub. L. 90-448 substituted "$125,000" for "$50,000."

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

1966—Pub. L. 89-754 designated existing provisions as subsecs. (a) and (b) and redesignated former proviso of section 1500c—2 of this title as subsec. (c), substituting therein "Secretary" and "$10,000,000" for "Administrator" and "$5,000,000", respectively.

1965—Pub. L. 89-117 substituted provision authorizing the Administrator to use during any fiscal year not to exceed $50,000 of the funds available for grants under this chapter for studies and publication of information for provision authorizing the appropriation, out of moneys in the Treasury not otherwise appropriated, of such amounts as may be necessary to provide for assistance, studies, and publication.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as a note under section 1500 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

§ 1500d-1. Definitions.

As used in this chapter—

(1) The term "open-space land" means any land located in an urban area which has value for (A) park and recreational purposes, (B) conservation of land and other natural resources, or (C) historic, architectural, or scenic purposes.

(2) The term "urban area" means any area which is urban in character, including those surrounding areas which, in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

(3) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States.

(4) The term "local public body" means any public body (including a political subdivision) created by or under the laws of a State or two or more States, or a combination of such bodies, and includes Indian tribes, bands, groups, and nations (including Alaska Indians, Aleuts, and Eskimos) of the United States.

(5) The term "open-space uses" means any use of open-space land for (A) park and recreational purposes, (B) conservation of land and other natural resources, or (C) historic, architectural or scenic purposes. (Pub. L. 87-70, title VII, § 709, as added Pub. L. 89-754, title VI, § 605(g), Nov. 3, 1966, 80 Stat. 1280, and amended Pub. L. 91-609, title IV, § 401, Dec 31, 1970, 84 Stat. 1783.)

AMENDMENTS

1970—Pub. L. 91-609 substituted provisions respecting definitions (formerly covered in former section 1500e of this title) for provisions relating to grants for historic preservation, now covered in section 1500a(a) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-609 effective July 1, 1971, see section 401 of Pub. L. 91-609, set out in part as a note under section 1500 of this title.

CRITERIA FOR GRANTS FOR HISTORIC PRESERVATION

Section 605(h) of Pub. L. 89-754 provided that: "Commencing three years after the date of the enactment of this Act [Nov. 3, 1966], no grant shall be made (except pursuant to a contract or commitment entered into less than three years after such date) under section 709 of the Housing Act of 1961 [this section] or section 701(h) of the Housing Act of 1954 [section 461(h) of Title 40], or under section 103 of the Housing Act of 1949 [section 1453 of this title] to the extent that it is to be used for historic or architectural preservation, except with respect to districts, sites, buildings, structures, and objects which the Secretary of Housing and Urban Development finds meet criteria comparable to those used in establishing the National Register maintained by the Secretary of the Interior pursuant to other provisions of law."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3914 of this title.

CODIFICATION

Section 1500e, Pub. L. 87-70, title VII, § 710, formerly § 706, June 30, 1961, 75 Stat. 185, renumbered § 709 and amended Pub. L. 89-117, title IX, §§ 902(c), 906, Aug. 10, 1965, 79 Stat. 495, renumbered § 710, Pub. L. 89-754, title VI, § 605(g), Nov. 3, 1966, 80 Stat. 1280; amended Pub. L. 90-19, § 18(c), May 25, 1967, 81 Stat. 25, was omitted in the general amendment of this chapter by Pub. L. 91-609, title IV, § 401, Dec. 31, 1970, 84 Stat. 1781, effective July 1, 1971. Section provided for definitions of "open-space land", "urban area", "State", and "open-space uses", and is now incorporated in this section.

Chapter 9.—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12 section 1715n.

SUBCHAPTER I.—PROJECTS GENERALLY

CROSS REFERENCES

Provisions to expedite defense housing, see sections 1521 et seq., and 1541 et seq. of this title.

§ 1501. Cooperation between departments; definitions; limitation of projects.

In connection with the national defense program, the Departments of the Navy, Army, and Air Force and the United States Housing Authority are authorized to cooperate in making necessary housing available for persons engaged in national defense activities, as provided in this subchapter. "Persons engaged in national defense activities" (as that term is used in this subchapter) shall include (i) enlisted men with families, who are in the naval and military service and officers of the Army, Air Force, and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant and employees of the Departments of the Navy, Army, and Air Force who are assigned to duty at naval or military reservations, posts, or bases, and (ii) workers with families, who are engaged or to be engaged in industries connected with and essential to the national defense program. No project shall be developed or assisted for the purposes of this subchapter except with the approval of the President and upon a determination by him that there is an acute shortage of housing in the locality involved which impedes the national defense program. (June 28, 1940, ch. 440, title II, § 201, 54 Stat. 681; Oct. 26, 1942, ch. 626, § 1, 56 Stat. 988.)

CODIFICATION

The Department of the Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B (123)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947 were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military De-

partments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1942—Act Oct. 26, 1942, struck out parenthesis and the words "excluding officers" and inserted in lieu thereof the words "and officers of the Army and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant".

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

DELEGATION OF FUNCTIONS

Functions of the President under this section and sections 1502—1505, to determine that housing administered or assisted by the Public Housing Administration is no longer needed to assure the availability of dwellings for persons engaged in national defense activities, delegated to the Housing and Home Finance Administrator, see section 1(4) of Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, set out as a note under section 1701c of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1404a, 1406, 1502 of this title.

§ 1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.

(a) Projects may be initiated under this subchapter by the Department of the Navy or Army or the Air Force to provide dwellings on or near naval or military reservations, posts or bases for rental to the officers, enlisted men and employees of the Departments of the Navy, Army, and Air Force described in section 1501 of this title. Such projects shall be developed by the Department of the Navy or Army or the Air Force or by the Authority, whichever the President determines is better suited to the fulfillment of the purposes of this subchapter with respect to any particular project. If the development of such project is to be undertaken by the Department of the Navy or Army or Air Force, the Authority is authorized to aid the development of the project by furnishing technical assistance and by transferring to such Department the funds necessary for the development of the project. Any project developed for the purpose of this section shall be leased to the Department of the Navy or Army or Air Force by the Authority (which shall have title to such project until repayment of the cost thereof to the Authority as prescribed in such lease) upon such terms as shall be prescribed in the lease, which may be the same terms as are authorized by the United States Housing Act of 1937, with respect to leases to public housing agencies. All the provisions of said Act which apply to the development of projects by the Authority shall (insofar as applicable and not inconsistent herewith) apply to the development of projects by the Department of the Navy or Army or Air Force. Notwithstanding other provisions of this or any other law, the Department leasing a project shall have the same jurisdiction over such project as it has over the reservation, post or base in connection with which the project is developed.

(b) The Department of the Navy or Army or Air Force, in connection with any project developed or leased by it, and the Authority, in connection with any project developed or assisted by it, for the purposes of this subchapter, may acquire real or personal property or any interest therein by purchase, eminent domain, gift, lease or otherwise. The provisions of section 733 of Title 33, section 255 of Title 40 and section 175 of Title 50 shall not apply to the acquisition of any real property by the Department of the Navy or Army or Air Force or by the Authority for the purposes of this subchapter or to the project developed thereon, and the provisions of section 303b of Title 40, shall not apply to any lease of any project developed for the purposes of this subchapter or of any dwelling therein. Condemnation proceedings instituted by the Authority shall be in its own name and the practice and procedure governig such proceedings by the United States shall be followed, and the Authority shall likewise be entitled to proceed in accordance with the provisions of sections 258a to 258e and 361 to 386 of Title 40. If the Authority acquires land in connection with a project to be assisted for the purposes of this subchapter, it may convey such land to the public housing agency involved for a consideration equal to the cost of the land to the Authority. The Departments of the Navy, Army, and Air Force and the Authority may negotiate, contract and fix such fees as they determine are reasonable for the services of architects, engineers, surveyors, appraisers, title examiners and real estate negotiators in connection with specific projects developed by them under this subchapter. The Secretaries of Navy, Army, and Air Force are authorized to make available to the Authority any land that is needed for a project to be developed by the Authority and leased to the Department of the Navy or Army or Air Force and to execute such leases, agreements and other instruments with the Authority as may be necessary to carry out the purposes of this subchapter. (June 28, 1940, ch. 440, title II, § 202, 54 Stat. 683; Oct. 26, 1942, ch. 626, § 1, 56 Stat. 988.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a), is classified to chapter 8 of this title.

"Said Act", referred to in subsec. (a), refers to the United States Housing Act of 1937.

Sections 361 to 386 of Title 40, referred to in the text, related to condemnation proceedings in the District of Columbia, and have been transferred to section 16–1301 et seq. of the District of Columbia Code.

CODIFICATION

The Department of the Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Order No. 40 [App. A(75)], July 22, 1949. The Department of War was designated the Department of

the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947 were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1942—Act Oct. 26, 1942, inserted the word "officers" between the words "rental to the" and "enlisted men," in the first sentence.

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1404a, 1406 of this title.

§ 1502a. Repealed. Pub. L. 85–861, § 36A, Sept. 2, 1958, 72 Stat. 1569.

Section, act July 15, 1955, ch. 368, title V, § 509, 69 Stat. 351, related to acquisition of housing units for military personnel and dependents, and is now covered by section 2678 of Title 10, Armed Forces.

§ 1503. Development of projects by Authority; financial assistance to public housing agencies.

In any localities where the President determines that there is an acute shortage of housing which impedes the national defense program and that the necessary housing would not otherwise be provided when needed for persons engaged in national defense activities, the Authority may undertake the development and administration of projects to assure the availability of dwellings in such localities for such persons and their families, or the Authority may extend financial assistance of public housing agencies for the development and administration of such projects. Such financial assistance to public housing agencies shall be extended (except as otherwise provided herein and not inconsistent herewith) under the provisions of, and in the same manner and forms as provided in, title I[1] of the United States Housing Act of 1937, as amended, with respect to other housing projects. (June 28, 1940, ch. 440, title II, § 203, 54 Stat. 683.)

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in the text, is classified to chapter 8 of this title.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 80–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1404a, 1406 of this title.

§ 1504. Rental rates; exemption from limitations of United States Housing Act of 1937.

Any contract made for financial assistance under the United States Housing Act of 1937, as amended, may be revised so as to provide that the project involved will be assisted for any of the purposes of this subchapter. The Department of the Navy or Army or the Air Force or the Authority, in the administration of any project developed for the purposes of this subchapter, shall fix rentals for persons engaged in national defense activities and their families which will be within their financial reach, and the Authority, in any contract for financial assistance or any lease of such a project, shall require the fixing of such rentals. Projects developed by the Department of the Navy or Army or Air Force, or developed or assisted by the Authority, for the purposes of this subchapter shall not be subject to the elimination requirements of sections 1410 (a) and 1411 (a) of this title, or to any provisions of section 1409 of this title which would require any part of the development cost thereof to be met in any manner other than from funds loaned or furnished by the Authority. Funds expended for the purposes of this subchapter shall be excluded in determining, for the purposes of section 1421(d) of this title, the amounts expended within each State. Except as otherwise provided in this subchapter or as may be inconsistent with this subchapter, all the provisions of title I[1] of the United States Housing Act of 1937 shall apply to this subchapter. During the period when the President determines that in any locality there is an acute need for housing to assure the availability of dwellings for persons engaged in national defense activities, dwellings in a project developed or assisted in said locality which are devoted to the purposes of providing housing for persons engaged in national defense activites shall not be subject to subsections (1) and (2) of section 1402 of this title, and during such period such projects shall be deemed projects of a low-rent character for the purposes of any of the applicable provisions in Title I[1] of the United States Housing Act of 1937. (June 28, 1940, ch. 440, title II, § 204, 54 Stat. 683.)

[1] So in original. Reference should probably be to entire "United States Housing Act of 1937" since such act was not divided into titles. See chapter 8 of this title.

REFERENCES IN TEXT

Section 1421(d) of this title, referred to in text, was repealed by Pub. L. 87–70, title II, § 204(c), June 30, 1961, 75 Stat. 164. See section 1410(e) of this title.

The United States Housing Act of 1937, as amended, referred to in the text, is classified to chapter 8 of this title.

CODIFICATION

The Department of the Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(124)], July 22, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1404a, 1406 of this title.

§ 1505. Funds of Authority.

The Authority may use for the purposes of this subchapter any of the funds or authorizations heretofore or hereafter made available to it. (June 28, 1940, ch. 440, title II, § 205, 54 Stat. 683.)

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of the Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Such Reorg. Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by said Reorg. Plan. The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban Development pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

PROVISIONS INAPPLICABLE TO THIS SUBCHAPTER

Section 205 of act June 28, 1940, contained the following sentence: "The provisions of title I of this Act shall not apply to this title." The provisions of title I of act June 28, 1940 were incorporated in the Code as section 40 of Title 41, Public Contracts, and former sections 1151—1162 of Appendix to Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1404a, 1406 of this title.

§ 1506. Administration of utilities and utility services; granting of easements.

(a) Any Federal agency (including any wholly owned Government corporation) administering utility installations connected to a utility system for housing under the jurisdiction of the Secretary of Housing and Urban Development is authorized—

(1) to continue to provide utilities and utility services to such housing as long as it is under the jurisdiction of the Secretary.

(2) to contract with the purchasers or transferees of such housing to continue the utility connection with such installations and furnish such utilities and services as may be available and needed in connection with such housing, for such period of time (not exceeding the period of Federal administration of such installations) and subject to such terms (including the payment of the pro rata cost to the Government or the market value of the utilities and services furnished, whichever is greater) as may be determined by the head of the agency;

(3) to dispose of such installations, when excess to the needs of the agency, and where not excess to grant an option to purchase, to the purchasers or transferees of such housing, for an amount not less than the appraised value of the installations and upon such terms and conditions as the head of the agency shall establish.

(b) Any Federal agency (including any wholly owned Government corporation) having under its jurisdiction lands across which run any part of a utility system for housing under the jurisdiction of the Secretary is authorized to grant to the Secretary, or to the purchasers or transferees of such housing, easements (which may be perpetual) on such land for utility purposes. (June 28, 1948, ch. 688, § 2, 62 Stat. 1063.)

CODIFICATION

Section was enacted as a part of the Defense Housing and Community Facilities and Services Act of 1951 and not as part of the National Defense Expediting Act, title II of which comprises this subchapter.

TRANSFER OF FUNCTIONS

The "Secretary of Housing and Urban Development" was substituted for the "Housing and Home Finance Administrator" pursuant to Pub. L. 89–179, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title, which transferred to and vested in the Secretary all of the powers, functions, and duties of the Housing and Home Finance Agency, its head and other officers and offices of said agency.

§ 1507. Temporary prohibition of authorized projects and waivers.

CODIFICATION

Section, act Sept. 1, 1951, ch. 378, title VI, § 616, 65 Stat. 317, prohibited from Sept. 1, 1951 to June 30, 1953 the initiation of projects, and the waiver or suspension of the income limitations contained in the United States Housing Act of 1937, pursuant to the authorization therefor contained in sections 1501 and 1505 of this title, and has been omitted from the Code as executed.

SUBCHAPTER II.—DEFENSE HOUSING

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with public war housing under sections 1521—1524 of this title, see section 1701g–5 of Title 12, Banks and Banking.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553, 1571, 1572, 1581, 1582, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 sections 1701g–5, 1745.

§ 1521. Housing and Home Finance Administrator's powers respecting defense housing.

In order to provide housing for persons engaged in national-defense activities, and their families, and living quarters for single persons so engaged, in those areas or localities in which the President shall find that an acute shortage of housing exists or impends which would impede national-defense activities and that such housing would not be provided by private capital when needed, the Housing and Home Finance Administrator (hereinafter referred to as the "Administrator") is authorized:

(a) To acquire prior to the approval of title by the Attorney General (without regard to section 1339 of Title 10 and section 5 of Title 41), improved or unimproved lands or interests in lands by purchase, donation, exchange, lease (without regard to sections 34 and 40a of Title 40, or any time limit on the availability of funds for the payment of rent), or condemnation (including proceedings under sections 257, 258, 361 to 386, and 258a to 258e of Title 40).

(b) By contract or otherwise (without regard to section 1339 of Title 10, section 5 of Title 41, and section 40a of Title 40, or any Federal, State, or municipal laws, ordinances, rules, or regulations relating to plans and specifications or forms of contract, the approval thereof or the submission of estimates therefor) prior to the approval of title by the Attorney General to make surveys and investigations, plan, design, construct, remodel, extend, repair, or demolish structures, buildings, improvements, and community facilities, on lands or interests in lands acquired under the provisions of subsection (a) of this section or on other lands of the United States which may be available (transfers of which for this purpose by the Federal agency having jurisdiction thereof are authorized notwithstanding any other provisions of law), provide proper approaches thereto, utilities, and transportation facilities, and procure necessary materials, supplies, articles, equipment, machinery, and do all things necessary in connection therewith to carry out the purposes of this subchapter: *Provided,* That the cost-plus-a-percentage-of-cost system of contracting shall not be used, but this proviso shall not be construed to prevent the use of the cost-plus-a-fixed-fee form of contract and so far as is consistent with emergency needs, contracts shall be subject to section 5 of Title 41: *Provided,* That the cost per permanent family-dwelling unit shall not exceed an average of $3,750 for all types of construction for those units located within the continental United States nor an average of $4,250 for those located elsewhere (exclusive of Alaska), and the cost of no family-dwelling unit shall exceed $4,500 within the continental United States or $4,750 elsewhere, except in the Territory of Alaska, where the cost shall not exceed $7,500, exclusive of expenses of administration, land acquisition, public utilities, and community facilities, and the aggregate cost of community facilities shall not exceed 3 per centum of the total cost of all projects: *Provided further,* That where the Administrator shall consider that there is no reasonable prospect of disposing of such housing to meet a need extending beyond the emergency he shall construct temporary units: *Provided further,* That all items of cost with respect to each such family dwelling unit shall be separately estimated with a view toward economy, and no movable equipment shall be installed in such units, unless the Administrator shall, in any particular case, deem such installation to be in the public interest. (Oct. 14, 1940, ch. 862, title I, § 1, 54 Stat. 1125; Apr. 29, 1941, ch. 80, § 1, 55 Stat. 147; June 28, 1941, ch. 260, § 2, 55 Stat. 361; Jan. 21, 1942, ch. 14, §§ 1, 11, 56 Stat. 11, 13; 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

REFERENCES IN TEXT

Section 258 of Title 40, referred to in the text, has been omitted from the Code as superseded by Rule 71A of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Sections 361 to 386 of Title 40, referred to in the text, related to condemnation proceedings in the District of Columbia, and have been transferred to section 16–1301 et seq. of the District of Columbia Code.

Section 1339 of Title 10, referred to in subsecs. (a) and (b), was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Similar provisions now appear in sections 4774 and 9774 of Title 10, Armed Forces.

Section 40a of title 40, referred to in text, has been codified and the text thereof is set out as section 278a of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1942—Opening par. Act Jan. 21, 1942, § 1(a), inserted "and living quarters for single persons so engaged."

Subsec. (b). Act Jan. 21, 1942, §§ 1(b), 11, substituted "*Provided,* That the cost per permanent family-dwelling unit * * * construct temporary units" for the next to last proviso and inserted in the first proviso "and so far as is consistent with emergency needs, contracts shall be subject to section 5 of Title 41."

1941—Subsect. (b). Act June 28, 1941, substituted "this title" for "this Act," translated in subsec. (b) as "this subchapter."

Act Apr. 29, 1941, substituted "$3,500" for "$3,000" and added last proviso.

SHORT TITLE

Act Oct. 14, 1940, which is classified to subchapters II—VII of this chapter, is popularly known as the "Lanham Public War Housing Act."

SAVINGS CLAUSE

Termination of powers at end of emergency, savings, clause, see section 1541 of this title.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other

officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" respectively, wherever appearing in sections 1521—1524, 1541—1550, 1552, 1553, 1561—1563, 1571, 1572 and 1575 of this title by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

CONTINUATION OF PROVISIONS

Section 1 (a) (12) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

District of Columbia defense housing projects, applicability of section, see section 1561 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1541, 1561 of this title and title 12 section 1701g-5.

§ 1522. Definitions; actions to recover developed property.

As used in subchapters II—VII of this chapter, (a) the term "persons engaged in national-defense activities" shall include (1) enlisted men in the naval or military services of the United States; (2) employees of the United States in the Departments of the Navy, Army and Air Force assigned to duty at naval or military reservations, posts, or bases; (3) workers engaged or to be engaged in industries connected with and essential to the national defense; (4) officers of the Army, Air Force and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant, senior grade, assigned to duty at naval or military reservations, posts, or bases, or to duty at defense industries: *Provided*, That any proceedings for the recovery of possession of any property or project developed or constructed under this subchapter shall be brought by the Administrator in the courts of the States having jurisdiction of such causes and the laws of the States shall be applicable thereto; (b) the term "Federal agency" means any executive department or office (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly. (Oct. 14, 1940, ch. 862, title I, § 2, 54 Stat. 1126; Jan. 21, 1942, ch. 14, § 2, 56 Stat. 11; 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

CODIFICATION

The Department of the Air Force was inserted under the authority of section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947 were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956 enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1942—Act Jan. 21, 1942, inserted clause (a) (4) and proviso.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original to "this Act", meaning act Oct. 14, 1940, set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter

V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17.

CROSS REFERENCES

Public work defined, see section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701g-5 of title 12.

§ 1523. Appropriations.

There is authorized to be appropriated to carry out the purpose of this subchapter, in accordance with the authority therein contained and for administrative expenses in connection therewith, including transfer of household goods and effects as provided by section 73c-1 of Title 5, and regulations promulgated thereunder, not to exceed the sum of $1,500,000,000, to remain available until expended: *Provided, however,* That the Administrator is authorized to reimburse, from funds which may be appropriated pursuant to the authority of this subchapter the sum of $3,300,000 to the emergency funds made available to the President under the Act of June 11, 1940, ch. 313, 54 Stat. 265 entitled "An Act making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1941, and for other purposes" (Public Numbered 588), and the sum of $6,700,000 to the emergency funds made available to the President under the Military Appropriation Act, 1941, approved June 13, 1940 (Public Numbered 611): *Provided further,* That the term "administrative expenses" as used herein shall be deemed to include administrative expenses of the Housing and Home Financing Agency in connection with any functions performed by it, as a claimant agency under the controlled materials plan established pursuant to subsection (a) of section 1152 of Appendix to Title 50, with respect to priorities or allocations of materials relating to public or private housing. (Oct. 14, 1940, ch. 862, title I, § 3, 54 Stat. 1126; Apr. 29, 1941, ch. 80, § 2, 55 Stat. 147; June 28, 1941, ch. 260, § 2, 55 Stat. 361; Jan. 21, 1942, ch. 14, § 3, 56 Stat. 12; Ex. Ord. No. 9070, § 1, Feb 24, 1942, 7 F.R. 1529; Oct. 1, 1942, ch. 572, 56 Stat. 763; July 7, 1943, ch. 196, §§ 1, 2, 57 Stat. 387; July 1, 1944, ch. 374, 58 Stat. 720; 1947 Reorg. Plan No. 3, §§ 1, 4(a), 9, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

REFERENCES IN TEXT

Section 73c-1 of Title 5, referred to in the text, was repealed by act Aug. 2, 1946, ch. 744, § 2, 60 Stat. 807, eff. Nov. 1, 1946, and is now covered by section 5724 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1944—Act July 1, 1944, inserted in last proviso immediately following "performed by it" words ", as a claimant agency * * * to Title 50,", and deleted "for persons engaged in national defense activities" following "public or private housing".

1943—Act July 7, 1943, substituted "$1,500,000,000" for "$1,200,000,000," and added proviso relating to administrative expenses.

1942—Act Oct. 1, 1942, substituted "$1,200,000,000" for "$600,000,000".

Act Jan. 21, 1942, amended portion of section preceding proviso.

1941—Act June 28, 1941, substituted "this title" for "this Act", translated herein as "this subchapter."

Act Apr. 29, 1941, substituted "$300,000,000" for "$150,000,000".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, set out as a note under former section 1403 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

ADDITIONAL APPROPRIATIONS

Act Apr. 25, 1945, ch. 95, title I, 59 Stat. 82, as amended July 5, 1945, ch. 271, title I, 59 Stat. 420, provided $84,373,000 as an additional amount to carry out the purposes of this subchapter.

PRIOR ADDITIONAL APPROPRIATIONS

Joint Res. Oct. 14, 1940, ch. 857, 54 Stat. 1115, $75,000,000.
Acts Mar. 1, 1941, ch. 9, § 1, 55 Stat. 14, $5,000,000.
May 24, 1941, ch. 132, § 1, 55 Stat. 199, $150,000,000.
Dec. 17, 1941, ch. 591, title III, 55 Stat. 818, $300,000,000.
Dec. 23, 1941, ch. 621, 55 Stat. 855, $300,000,000.
July 12, 1943, 4 p. m., E. W. T., ch. 229, title I, 57 Stat. 540, $50,000,000.
Dec. 23, 1943, ch. 380, title I, 57 Stat. 618, $50,000,000.
April 1, 1944, ch. 152, title I, § 1, 58 Stat. 153, $115,000,000.
June 28, 1944, ch. 304, title I, 58 Stat. 604.

DETERMINATION OF ESSENTIALITY OF PROJECTS

Act July 5, 1945, ch. 271, title I, 59 Stat. 420, provided in part: "Any project in which the War Department or the Navy Department does not have a paramount interest, no obligation shall be incurred unless and until the Director of the Bureau of the Budget shall have determined its essentiality to the prosecution of the war."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701g-5 of title 12.

§ 1524. Declaration of policy; disposal of housing.

It is declared to be the policy of this subchapter to further the national defense by providing housing in those areas where it cannot otherwise be provided by private enterprise when needed, and that such housing may be sold and disposed of as expeditiously as possible: *Provided,* That in disposing of said housing consideration shall be given to its full market value and said housing or any part thereof shall not, unless specifically authorized by Congress, be conveyed to any public or private agency organized for slum clearance or to provide subsidized housing for persons of low income: *Provided further,* That the Administrator may, in his discretion, upon the request of the Secretaries of the Army, Air Force or Navy transfer to the jurisdiction of the Army, Air Force or Navy Departments such housing constructed under the provisions of subchapters II—VII of this chapter as may be considered to be

permanently useful to the Army, Air Force or Navy: *Provided further,* That whenever the Administrator disposes of any permanent house or structure containing not more than four family dwelling units under authority of this subchapter by offering such house or structure for sale on an individual basis, he shall, when the purchaser is a veteran buying for his own occupancy, sell any such house or structure (1) at a purchase price not in excess of the apportioned cost of such house or structure and of the land and appurtenances allocated thereto, together with the apportioned share of the cost of all utilities and other facilities provided for and common to the project of which such house or structure is a part, or (2) at a purchase price not in excess of such considered full market value of such house or structure and the land, appurtenances, utilities and facilities allocated thereto, whichever purchase price is the less: *Provided further,* That, for the purposes of this section, housing constructed or acquired under the provisions of Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Law 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, shall be deemed to be housing constructed or acquired under subchapters II—VII of this chapter. (Oct. 14, 1940, ch. 862, title I, § 4, as added Jan. 21, 1942, ch. 14, § 4, 56 Stat. 12, and amended Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1259; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 19, 1948, ch. 520, 62 Stat. 492; June 28, 1948, ch. 688, § 3, 62 Stat. 1064; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

REFERENCES IN TEXT

Public Law 781, Seventy-sixth Congress, referred to in text, was the Second Supplemental National Defense Act, 1941, act Sept. 9, 1940, ch. 717, 56 Stat. 872;

Public Law 9 was the Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14;

Public Law 73 was the Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197.

Public Law 353 was the Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810.

CODIFICATION

The Department of the Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(126)], July 29, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947, were repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1948—Act June 19, 1948, added proviso to permit the sale of certain permanent war housing to veterans at a purchase price not in excess of the cost of construction.

Act June 28, 1948, added last proviso.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, set out as a note under former section 1403 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act", meaning act Oct. 14, 1940, set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1582 of this title and title 12 section 1701g-5.

SUBCHAPTER III.—DEFENSE PUBLIC WORKS

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with community facilities provided or assisted under sections 1531—1534 of this title, see section 1701g-5 of Title 12, Banks and Banking.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553, 1581, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 sections 1701g-5, 1745.

§ 1531. Declaration of policy; definition of "public work."

It is declared to be the policy of this subchapter to provide means by which public works may be acquired, maintained, and operated in the areas described in section 1532 of this title. As used in this subchapter, the term "public work" means any facility necessary for carrying on community life substantially expanded by the national-defense program, but the activities authorized under this subchapter shall be devoted primarily to schools, waterworks, sewers, sewage, garbage and refuse disposal facilities, public sanitary facilities, works for the treatment and purification of water, hospitals and other places for the care of the sick, recreational facilities, and streets and access roads. (Oct. 14, 1940, ch. 862, title II, § 201, as added June 28, 1941, ch. 260, § 3, 55 Stat. 361.)

CROSS REFERENCES

Federal agency defined, see section 1522 of this title.

Persons engaged in national defense activities defined, see section 1522 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701g-5 of title 12.

§ 1532. Housing and Home Finance Administrator's powers respecting defense public works; definition of "private agency."

Whenever the President finds that in any area or locality an acute shortage of public works or equipment for public works necessary to the health, safety, or welfare of persons engaged in national-defense activities exists or impends which would impede national-defense activities, and that such public works or equipment cannot otherwise be provided when needed, or could not be provided without the imposition of an increased excessive tax burden or an unusual or excessive increase in the debt limit of the taxing or borrowing authority in which such shortage exists, the Housing and Home Finance Administrator is authorized, with the approval of the President, in order to relieve such shortage—

(a) To acquire, prior to the approval of title by the Attorney General if necessary (without regard to section 1339 of Title 10, and section 5 of Title 41), improved or unimproved lands or interests in lands by purchase, donation, exchange, lease (without regard to sections 34 and 40a of Title 40, or any time limit on the availability of funds for the payment of rent), or condemnation (including proceedings under sections 257, 258, 258a to 258e, and 361 to 386 of Title 40), for such public works.

(b) By contract or otherwise (without regard to section 1339 of Title 10, section 5 of Title 41, section 40a of Title 40, or any Federal, State, or municipal laws, ordinances, rules, or regulations relating to plans and specifications or forms of contract, the approval thereof or the submission of estimates therefor), prior to the approval of title by the Attorney General if necessary, to plan, design, construct, remodel, extend, repair, or lease public works, and to demolish structures, buildings, and improvements, on lands or interests in lands acquired under the provisions of subsection (a) of this section or on other lands of the United States which may be available (transfers of which for this purpose by the Federal agency having jurisdiction thereof are authorized notwithstanding any other provisions of law), provide proper approaches thereto, utilities, and transportation facilities, and procure necessary materials, supplies, articles, equipment, and machinery, and do all things in connection therewith to carry out the purposes of this subchapter.

(c) To make loans or grants, or both, to public and private agencies for public works and equipment therefor, and to make contributions to public or private agencies for the maintenance and operation of public works, upon such terms and in such amounts as the Administrator may consider to be in the public interest. As used in this paragraph, the term "private agency" means any private agency no part of the net earnings of which inures to the benefit of any private shareholder or individual. (Oct. 14, 1940, ch. 862, title II, § 202, as added June 28, 1941, ch. 260, § 3, 55 Stat. 362, and amended Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269.)

REFERENCES IN TEXT

Section 258 of Title 40, referred to in the text, has been omitted from the Code as superseded by Rule 71A of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

Section 1339 of Title 10, referred to in pars. (a) and (b), was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Similar provisions now appear in sections 4774 and 9774 of Title 10, Armed Forces.

Sections 361 to 386 of title 40, referred to in par. (a), related to condemnation proceedings in the District of Columbia and have been transferred to D.C. Code, section 16-1301, et seq.

Section 40a of title 40, referred to in text, has been codified and the text thereof is set out as section 278a of Title 40, Public Buildings, Property, and Works.

SAVINGS CLAUSE

Termination of powers at end of emergency, savings clause, see section 1541 of this title.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positons and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

All functions, except as herein described, of the Administrator of General Services under sections 1531—1534 of this title, together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of those sections, were transferred to the Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, set out in the Appendix to Title 5, Government Organization and Employees. Section 2 of the Plan excepted, from the transfer, functions with respect to the holding, management, and disposition of securities received prior to the effective date of the Plan (May 24, 1950) by the General Services Administration or its predecessor agency (Federal Works Agency) by reason of the disposal of property constructed or otherwise acquired under sections 1531—1534 of this title, and functions with respect to litigation, and the liquidation of claims, arising out of the acquisition of land or the construction of facilities under those sections. Section 3 of the Plan vested authority in the Housing and Home Finance Administrator to delegate any of the transferred functions to any other officer, or to any agency or employee, of the Housing and Home Finance Agency. For transfer of records, property, personnel, and funds, see section 4 of the Plan.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the Office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

CONTINUATION OF PROVISIONS UNTIL JULY 1, 1953

Section 1 (a) (12) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

CROSS REFERENCES

Federal aid for school construction in areas affected by federal activities, see section 631 et seq. of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1531, 1541, 1562 of this title and title 12 section 1701g-5.

§ 1533. Terms to be observed in application of subchapter; restrictions against governmental supervision over schools and hospitals.

(a) In carrying out this subchapter—

(1) no contract on a cost plus a percentage of cost basis shall be made, but contracts may be made on a cost plus a fixed fee basis: *Provided*, That the fixed fee does not exceed 6 per centum of the estimated cost;

(2) wherever practicable, utilization shall be made of existing private and public facilities or such facilities shall be extended, enlarged, or equipped in lieu of constructing new facilities;

(3) public works shall be maintained and operated by officers and employees of the United States only if and to the extent that local public and private agencies are, in the opinion of the Administrator, unable or unwilling to maintain or operate such public works adequately with their own personnel and under loans or grants authorized by this subchapter;

(4) public works shall be provided on the basis of need and in determining need no discrimination shall be made on account of race, creed, or color.

(b) No department or agency of the United States shall exercise any supervision or control over any school with respect to which any funds have been or may be expended pursuant to this subchapter, nor shall any term or condition of any agreement under this subchapter relating to, or any lease, grant, loan, or contribution made under this subchapter to or on behalf of, any such school, prescribe or affect its administration, personnel, curriculum, instruction, methods of instruction, or materials for instruction.

(c) No department or agency of the United States shall exercise any supervision or control over any hospital or other place for the care of the sick (which is not owned and operated by the United States) with respect to which any funds have been or may be expended under this subchapter, nor shall any term or condition of any agreement under this subchapter relating to, or any lease, grant, loan, or contribution made under this subchapter to, or on behalf of, any such hospital or place, prescribe or affect its administration, personnel, or operation. (Oct. 14, 1940, ch. 862, title II, § 203, as added June 28, 1941, ch. 260, § 3, 55 Stat. 362, and amended 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1259; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

For transfer of functions under sections 1531—1534 of this title from Administrator of General Services and the General Services Administration to the Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949 effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

CROSS REFERENCES

District of Columbia public works projects, applicability of section, see section 1562 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1562 of this title and title 12 section 1701g-5.

§ 1534. Appropriations.

The sum of $530,000,000, to remain available until expended, is authorized to be appropriated to carry out the purposes of this subchapter and for administrative expenses in connection therewith, including personal services and rent in the District of Columbia and elsewhere, printing and binding, and purchase, repair, operation, and maintenance of motor-propelled passenger-carrying vehicles. (Oct. 14, 1940, ch. 862, title II, § 204, as added June 28, 1941, ch. 260, § 3, 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 5, 56 Stat. 12; July 15, 1943, ch. 240, 57 Stat. 565; July 3, 1945, ch. 264, § 1, 59 Stat. 383.)

AMENDMENTS

1945—Act July 3, 1945, substituted "$530,000,000" for "$500,000,000".

1943—Act July 15, 1943, substituted "$500,000,000" for "$300,000,000."

1942—Act Jan. 21, 1942, substituted "$300,000,000" for "$150,000,000."

LIMITATION ON USE OF FUNDS

Act July 15, 1943, amended by act July 3, 1945, provided in part: "That none of such funds shall be used for loans, grants, or contributions for the operation of day care or extended school services for children of mothers employed in war areas if and when the War-Area Child-Care Act of 1943 (S. 1130, Seventy-eighth Congress, first session) becomes law: *Provided further,* That no grant, loan, or contribution for the maintenance or operation of public schools in any State shall be made without prior consultation with the State department of education and the United States Office of Education: *Provided further,* That (a) none of the funds authorized herein shall be used to acquire public works already operated by public or private agencies, except where funds are allotted for substantial additions or improvements to such public works and with the consent of the owners thereof, and (b) the total amount allocated for contributions to public and private agencies for the maintenance and operation of public works after July 1, 1943, shall not exceed $120,000,000.

ADDITIONAL APPROPRIATIONS

Acts Apr. 25, 1945, ch. 95, title I, 59 Stat. 80; July 3, 1945, ch. 264, §§ 2, 3, 59 Stat. 383, provided in part: "For an additional amount to enable the Federal Works Administrator to carry out the functions vested in him by titles II and III of the Act of October 14, 1940, as amended (42 U. S. C. 1531-1534 and 1541), $20,000,000, to remain available during the continuance of the unlimited national emergency declared by the President on May 27, 1941, but not to be available for obligation for new projects after June 30, 1946, of which amount not to exceed $800,000 shall be available for administrative expenses, including the objects specified under the head 'Defense public works (community facilities)' in the Second Deficiency Appropriation Act, 1941 [act July 3, 1941, ch. 273, 55 Stat. 541] and the joint resolution approved December 23, 1941 (Public Law 371) [act Dec. 23, 1941, ch. 621, 55 Stat. 855]: *Provided,* That the limitation of $80,000,000 under this head in the First Supplemental Appropriation Act, 1945 [act March 31, 1945, ch. 47, 59 Stat. 46], on the total amount that may be allocated for contributions to public and private agencies for the maintenance and operation of public works after July 1, 1943, is hereby increased to $85,000,000: *Provided further,* That in making allocations out of the funds appropriated in this paragraph for construction projects priority shall be given to emergency projects involving an estimated cost to the Federal Government of less than $250,000."

For supplemental appropriations, see notes under section 1523 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701g-5 of title 12.

§ 1535. Contributions for the maintenance and operation of certain school facilities.

CODIFICATION

Section, act Oct. 14, 1940, ch. 862, title II, § 205, as added June 26, 1946, ch. 498, 60 Stat. 314, authorized, for the fiscal year ending June 30, 1947, contributions for the operation and maintenance of school facilities in order to enable school authorities that were still over-burdened with war-incurred school enrollments to meet their needs during transition from war to peacetime conditions.

§ 1536. Transference of projects or facilities to departments or agencies requesting same.

The Administrator is authorized without regard to any other provisions of law to transfer without reimbursement any project or facility, or part thereof, constructed or provided under this subchapter (including any personal property related to such project or facility), to any other department or agency, whenever the head of such department or agency so requests after determining that such project or facility is required for the continued operation of or is an integral part of a project or facility under the jurisdiction of such department or agency. (July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305.)

CODIFICATION

Section was enacted as a part of the First Independent Offices Appropriation Act, 1954, and not as a part of the Lanham Public War Housing Act which comprises this subchapter.

Section was not repeated in the Independent Offices Appropriation Act, 1955, act June 24, 1954, ch. 359, 68 Stat. 272.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

SUBCHAPTER IV.—GENERAL PROVISIONS AFFECTING SUBCHAPTERS II—VII

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1571, 1581, 1582, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 section 1745.

§ 1541. Termination of subchapters II—VII; saving clause.

When the President shall have declared that the emergency declared by him on September 8, 1939, has ceased to exist (a) the authority contained in sections 1521, 1532, 1561, and 1562 of this title shall terminate except with respect to contracts on projects previously entered into or undertaken and court proceedings then pending, and (b) property acquired or constructed under subchapters II—VII of this chapter (including schools and hospitals) shall be

disposed of as promptly as may be advantageous under the circumstances and in the public interest. (Oct. 14, 1940, ch. 862, title III, § 301, formerly § 4, 54 Stat. 1127, renumbered and amended June 28, 1941, ch. 260, § 4 (a), 55 Stat. 363; Apr. 10, 1942, ch. 239, § 1, 56 Stat. 212.)

AMENDMENTS

1942—Act Apr. 10, 1942, struck out a reference to sections 1521 and 1532 of this title and inserted in lieu thereof the reference to sections 1521, 1532, 1561, and 1562 of this title.

1941—Act June 28, 1941, inserted reference to section 1532 of this title.

CONTINUATION OF PROVISIONS UNTIL JULY 1, 1953

Section 1 (a) (12) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act", meaning act Oct. 14, 1940, set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; and 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.

§ 1542. Transfer of funds from other Federal agencies to Administrator.

Where any Federal agency has funds for the provision of housing in connection with national-defense activities it may, in its discretion, make transfers of those funds, in whole or in part, to the Administrator, and the funds so transferred shall be available for, but only for, any or all of the objects and purposes of and in accordance with all the authority and limitations contained in subchapters II—VII of this chapter, and for administrative expenses in connection therewith. (Oct. 14, 1940, ch. 862, title III, § 302, formerly § 5, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, and amended 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positons and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Service Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works. Such functions included functions under sections 1531—1534 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organizations and Employees.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act", meaning act Oct. 14, 1940, set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070, § 1; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17, referred to in notes above.

§ 1543. Disposition of moneys from rentals, operation and disposition of property, etc.; availability; establishment of reserves; limitation on, and termination of, reserves.

(a) Moneys derived from rental or operation of property acquired or constructed under the provisions of subchapters II—VII of this chapter, of Public Laws Numbered 9 (Act March 1, 1941, ch. 9, 55 Stat. 14), 73 (Act May 24, 1941, ch. 132, 55 Stat. 197), and 353 (Act Dec. 17, 1941, ch. 591, 55 Stat. 810), Seventy-seventh Congress and of section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended (Act Sept. 9, 1940, ch. 717, 54 Stat. 883), shall be available for expenses of operation and maintenance and expenses found necessary in the disposition of any such property or the removal of temporary housing by the Administrator, including the establishment of necessary reserves therefor and

administrative expenses in connection therewith: *Provided,* That moneys derived by the Administrator from the rental or operation of any such property may be deposited in a common fund account or accounts in the Treasury: *And provided further,* That except for necessary reserves authorized by subchapters II—VII of this chapter or by section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended (Act Sept. 9, 1940, ch. 717, 54 Stat. 883), the unobligated balances of the moneys deposited into the Treasury from the rental or operation of such property shall be covered at the end of each fiscal year into miscellaneous receipts: *And provided further,* That moneys derived from the rental and operation of such property and funds from the reserve account established by the Administrator pursuant to this section, not exceeding in the aggregate $10,000,000, shall be available and may be used by the Administrator for expenses found necessary in the provision of stopgap emergency housing in the Portland, Oregon-Vancouver, Washington, area for persons and families displaced as the result of the destruction of the temporary housing at Vanport in Multnomah County, Oregon, and other persons and families in such area rendered homeless as a result of the present flood, and in providing such stopgap emergency housing the Administrator may act without regard to section 5 of Title 41.

(b) Moneys derived by the Housing and Home Finance Administrator from the disposition of property, or from the removal of temporary housing, acquired or constructed under the provisions of subchapters II—VII of this chapter, of Public Laws Numbered 9, 73, and 353, Seventy-seventh Congress, and of section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended, shall be available for expenses of disposition and removal, including the establishment of necessary reserves therefor and administrative expenses in connection therewith: *Provided,* That moneys derived by said Administrator from the disposition of any such property or the removal of any such temporary housing may be deposited in a common fund account or accounts in the Treasury: *And provided further,* That except for necessary reserves authorized by subchapters II—VII of this chapter or by section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended, the unobligated balances of the moneys deposited into the Treasury from the disposition of any such property or the removal of any such temporary housing shall be covered at the end of each fiscal year into miscellaneous receipts.

(c) Moneys in the reserve account established by the Housing and Home Finance Administrator pursuant to subsections (a) and (b) of this section shall not exceed $25,000,000 at any time: *Provided,* That all moneys in said account shall be covered into miscellaneous receipts not later than two years after the President shall have declared that the emergency declared by him on September 8, 1939, has ceased to exist. (Oct. 14, 1940, ch. 862, title III, § 303, formerly § 6, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, and amended 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; July 7, 1943, ch. 196, § 3, 57 Stat. 388; Feb. 18, 1946, ch. 30, title I, § 101, 60 Stat. 9; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 11, 1948, ch. 448, 62 Stat. 356; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

REFERENCES IN TEXT

Public Laws Numbered 9, 73, and 353, Seventy-seventh Congress, and of section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended, referred to in text, refer to the following acts respectively: Public Law Number 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14, classified to sections 721–728 note of Title 15, Commerce and Trade, and section 1523 note of this title; Public Law No. 73. Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197, classified to section 1523 note of this title; Public Law No. 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810, classified to sections 411—419 note of Title 22, Foreign Relations and Intercourse, section 41 note of Title 24, Hospitals, Asylums and Cemeteries, section 529h of Title 31, Money and Finance, and section 1253 note of this title; and section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended, act Sept. 9, 1940, ch. 717, 54 Stat. 875, classified to section 1152 of the Appendix to Title 50, War and National Defense.

AMENDMENTS

1948—Subsec. (a). Act June 11, 1948, added last proviso.

1946—Subsec. (a). Act Feb. 18, 1946, designated existing provisions as subsec. (a).

Subsecs. (b) and (c). Act Feb. 18, 1946, added subsecs. (b) and (c).

1943—Act July 7, 1943, expanded scope of section and added two provisos at end.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Service Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works. Such functions included functions under sections 1531—1534 of this title.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act", meaning act Oct. 14, 1940 and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. No. 17.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the proviso of subsec. (c) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1585 of this title.

§ 1544. Power of Administrator to manage, convey, etc., housing properties.

Notwithstanding any other provisions of law, whether relating to the acquisition, handling, or disposal of real or other property by the United States or to other matters, the Administrator, with respect to any property acquired or constructed under the provisions of subchapters II—VII of this chapter, is authorized by means of Government personnel, selected qualified private agencies, or public agencies (a) to deal with, maintain, operate, administer, and insure; (b) to pursue to final collection by way of compromise or otherwise, all claims arising therefrom; (c) to rent, lease, exchange, sell for cash or credit, and convey the whole or any part of such property and to convey without cost portions thereof to local municipalities for street or other public use: *Provided,* That any such transaction shall be upon such terms, including the period of any lease, as may be deemed by the Administrator to be in the public interest: *Provided further,* That the Administrator shall fix fair rentals, on projects developed pursuant to subchapters II—VII of this chapter, which shall be based on the value thereof as determined by him, with power during the emergency, in exceptional cases, to adjust the rent to the income of the persons to be housed, and that rentals to be charged for Army, Air Force, and Navy personnel shall be fixed by the Departments of the Army, Air Force, and Navy: *Provided further,* That any lease authorized hereunder shall not be subject to the provisions of section 303b of Title 40. As used in this section the term "local municipalities" shall include the District of Columbia. (Oct. 14, 1940, ch. 862, title III, § 304, formerly § 7, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 6, 56 Stat. 12; 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; Apr. 10, 1942, ch. 239, § 2, 56 Stat. 212; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

CODIFICATION

The Department of the Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 501, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(129)], July 29, 1949. The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of such act July 26, 1947. Sections 205 (a) and 207 (a), (f) of act July 26, 1947, were repealed by sections 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 and 8011—8013 continued the military Departments of the Army and Air Force under the administrative supervision of a Secretary of the Army and a Secretary of the Air Force, respectively.

AMENDMENTS

1942—Act Apr. 10, 1942, added last sentence.
Act Jan. 21, 1942, amended second proviso.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Service Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property and Works. Such functions included functions under sections 1531—1534 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3 set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act" meaning act Oct. 14, 1940, and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of Gen-

eral Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17.

CROSS REFERENCES

Occupancy of government housing facilities by members of uniformed services and their dependents, see section 403(e) of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1552 of this title.

§ 1545. Utilization of Federal and local agencies and private services; conformity of projects to local planning.

In carrying out the provisions of subchapters II—VII of this chapter the Administrator is authorized to utilize and act through the Housing and Home Finance Agency and other Federal agencies and any local public agency, with the consent of such agency, and any funds appropriated pursuant to subchapters II—VII of this chapter shall be available for transfer to any such agency in reimbursement therefor. Nothing in subchapters II—VII of this chapter shall be construed to prevent the Administrator from employing or utilizing the professional services of private persons, firms, or corporations. Consultation shall be had with local public officials and local housing authorities to the end that projects constructed under the provisions of subchapters II—VII of this chapter shall, so far as may be practicable, conform in location and design to local planning and tradition. (Oct. 14, 1940, ch. 862, title III, § 305, formerly § 8, 54 Stat. 1127, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 7, 56 Stat. 12; 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), (9), eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

AMENDMENTS

1942—Act Jan. 21, 1942, added last sentence.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Service Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949 effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference in the original, to "this Act", meaning act Oct. 14, 1940, and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No .17.

§ 1546. Payment of annual sums to local authorities in lieu of taxes.

The Administrator shall pay from rentals annual sums in lieu of taxes to any State and/or political subdivision thereof, with respect to any real property acquired and held by him under subchapters II—VII of this chapter, including improvements thereon. The amount so paid for any year upon such property shall approximate the taxes which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation, with such allowance as may be considered by him to be appropriate for expenditure by the Government for streets, utilities, or other public services to serve such property. As used in this section the term "State" shall include the District of Columbia. (Oct. 14, 1940, ch. 862, title III, § 306, formerly § 9, 54 Stat. 1127, renumbered and amended June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363; Jan. 21, 1942, ch. 14, § 8, 56 Stat. 12; 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; Apr. 10, 1942, ch. 239, § 3 (a), 56 Stat. 212; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

CODIFICATION

Words "including any Territory or possession of the United States" appearing in text prior to amendment by act Jan. 21, 1942, were inserted upon authority of section 4 (b) of act June 28, 1941, which provided that when used in this section the term " 'State' includes any Territory or possession of the United States."

AMENDMENTS

1942—Act Apr. 10, 1942, added last sentence.

Act Jan. 21, 1942, amended section generally.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Service Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works. Such functions included functions under sections 1531—1535 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act", meaning act Oct. 14, 1940 and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1552, 1585 of this title.

§ 1547. Preservation of local civil and criminal jurisdiction and civil rights.

Notwithstanding any other provision of law, the acquisition by the Administrator of any real property pursuant to subchapters II—VII of this chapter shall not deprive any State or political subdivision thereof, including any Territory or possession of the United States, of its civil and criminal jurisdiction in and over such property, or impair the civil rights under the State or local law of the inhabitants on such property. As used in this section the term "State" shall include the District of Columbia. (Oct. 14, 1940, ch. 862, title III, § 307, formerly § 10, 54 Stat. 1128, renumbered and amended June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363; 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; Apr. 10, 1942, ch. 239, § 3 (b), 56 Stat. 212; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

CODIFICATION

Words "including any Territory or possession of the United States" were inserted upon authority of section 4 (b) of act June 28, 1941, which provided that when used in this section the term "'State' includes any Territory or possession of the United States."

AMENDMENTS

1942—Act Apr. 10, 1942, added last sentence.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Services Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works. Such functions included functions under sections 1531—1535 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan Plan No. 3 set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II–VII

While this section refers to "subchapters II–VII" of this chapter because of reference, in the original, to "this Act", meaning act Oct. 14, 1940 and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1552 of this title.

§ 1548. Rules and regulations; standards of safety, convenience, and health.

The Administrator is authorized to make such rules and regulations as may be necessary to carry out the provisions of subchapters II—VII of this chapter, and shall establish reasonable standards of safety, convenience, and health. (Oct. 14, 1940, ch. 862, title III, § 308, formerly § 11, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, and amended 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Services Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property and Works. Such functions included functions under sections 1531—1534 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act" meaning act Oct. 14, 1940, and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070; 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17.

§ 1549. Laborers and mechanics; wages; preference in employment.

Notwithstanding any other provision of law, the wages of every laborer and mechanic employed on any construction, repair or demolition work authorized by subchapters II—VII of this chapter shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. Not less than the prevailing wages shall be paid in the construction of defense housing authorized herein. Preference in such employment shall be given to qualified local residents. (Oct. 14, 1940, ch. 862, title III, § 309, formerly § 12, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, and amended Jan. 21, 1942, ch. 14, § 9, 56 Stat. 12.

AMENDMENTS

1942—Act Jan. 21, 1942, added last sentence.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act" meaning act Oct. 14, 1940, and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F.R. 1529; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; and 1950 Reorg. Plan No. 17, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269.

§ 1550. Separability of provisions.

If any provision of subchapters II—VII of this chapter, or the application thereof to any persons or circumstances, is held invalid, the remainder of said subchapters, or application of such provision to other persons or circumstances shall not be affected thereby. (Oct. 14, 1940, ch. 862, title III, § 310, formerly § 13, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363.)

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act" meaning act Oct. 14, 1940, and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F.R. 1529; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; and 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269.

§ 1551. Repealed. Aug. 2, 1954, ch. 649, title VIII, § 802 (b), 68 Stat. 642.

Section, act Oct. 14, 1940, ch. 862, title III, § 311, formerly § 14, 54 Stat. 1128, renumbered June 28, 1941, ch. 260, § 4 (b), 55 Stat. 363, which related to reports to Congress, is now covered by section 1701o of Title 12, Banks and Banking.

§ 1552. Powers of certain agencies designated to provide temporary shelter.

Any agency designated by the President to provide temporary shelter under the provisions of Public Law Numbered 9, Seventy-seventh Congress, Public Law Numbered 73, Seventy-seventh Congress, or the Third Supplemental National Defense Appropriations

Act, 1942, shall have the same powers with respect to the management, maintenance, operation, and administration of such temporary shelter as are granted to the Housing and Home Finance Administrator under section 1544 and section 1546 of this title with respect to projects constructed hereunder, and the provisions of section 1547 of this title shall apply to such temporary shelter projects and the occupants thereof. (Oct. 14, 1940, ch. 862, title III, § 312, as added Jan. 21, 1942, ch. 14, § 10, 56 Stat. 13, and amended 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269.)

REFERENCES IN TEXT

The three laws referred to in this section constitute acts Mar. 1, 1941, ch. 9, 55 Stat. 14; May 24, 1941, ch. 132, 55 Stat. 197; and Dec. 17, 1941, ch. 591, 55 Stat. 810, respectively. Much of those acts was not general and permanent, and was consequently not included in the Code. For distribution of these acts in the Code, see Tables.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Services Administration to Housing and Home Finance Administrator by 1950, Reorg. Plan No. 17, see note set out under section 1532 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

Functions of Federal Works Administrator relating to defense housing were consolidated with other agencies into the National Housing Agency during World War II by Ex. Ord. No. 9070.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

§ 1553. Removal by Administrator of certain housing of temporary character; exceptions for local communities; report to Congress.

Except as otherwise provided in subchapters II—VII of this chapter, the Administrator shall, as promptly as may be practicable and in the public interest, remove (by demolition or otherwise) all housing under his jurisdiction which is of a temporary character, as determined by him, and constructed under the provisions of this subchapter, Public Law 781, Seventy-sixth Congress, and Public Laws 9, 73, 353, Seventy-seventh Congress. Such removal shall, in any event, be accomplished not later than July 1, 1954 or by such later date as may be required because of extensions of time in accordance with section 1584 of this title, with the exception only of such housing as the Administrator, after consultation with local communities, finds is still urgently needed because of a particularly acute housing shortage in the area: *Provided,* That all such exceptions shall be reexamined annually by the Administrator and that all such exceptions and reexaminations shall be reported to the Congress. Notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, no Federal statute, or regulation thereunder, shall prohibit or restrict any action or proceeding to recover possession of any housing accommodations for the purpose of carrying out the provisions of this section or section 1584 of this title. (Oct. 14, 1940, ch. 862, title III, § 313, as added July 7, 1943, ch. 196, § 4, 57 Stat. 388, and amended 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; June 28, 1948, ch. 688, § 4, 62 Stat. 1064; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Oct. 25, 1949, ch. 729, § 5, 63 Stat. 906; Apr. 20, 1950, ch. 94, title II, §§ 202, 204, 64 Stat. 72; 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269; Ex. Ord. No. 10385, Aug. 18, 1952, 17 F. R. 7525.)

REFERENCES IN TEXT

Public Law 781, Seventy-sixth Congress, approved September 9, 1940, referred to in the text, is act Sept. 9, 1940, ch. 717, 54 Stat. 872, an appropriation act, and is not classified to the Code.

Public Laws 9, 73, 353, Seventy-seventh Congress, acts Mar. 1, 1941, ch. 9, 55 Stat. 14; May 24, 1941, ch. 132, 55 Stat. 17; Dec. 17, 1941, ch. 591, 55 Stat. 810; respectively, are appropriation acts and are classified in part as notes under section 1523 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "December 31, 1952 * * * in the area" for "January 1, 1951, with the exception only of such housing as the Administrator, after consultation with local communities finds is still needed in the interest of orderly demobilization of the war effort," and added last sentence.

1949—Act Oct. 25, 1949, inserted "January 1, 1951" for "January 1, 1950".

1948—Act June 28, 1948, struck out "two years after the President declares that the emergency declared by him on September 8, 1939, has ceased to exist" and inserted in lieu thereof "January 1, 1950."

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of

this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

For transfer of functions under subchapter III of this chapter (sections 1531—1534 of this title) from Administrator of General Services and General Services Administration to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, see note set out under section 1532 of this title.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works. Such functions included functions under sections 1531—1535 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3.

SUBCHAPTERS II—VII

While this section refers to "subchapters II—VII" of this chapter because of reference, in the original, to "this Act" meaning act Oct. 14, 1940, and set out in such subchapters, apparently functions under sections 1562 and 1563 of this title, which constitute parts of subchapter V of this chapter, are vested in the Administrator of General Services rather than the Housing and Home Finance Administrator. They were not included in the transfers of functions effected by 1942 Ex. Ord. No. 9070, 1947 Reorg. Plan No. 3, and 1950 Reorg. Plan No. 17.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

EX. ORD. NO. 10385. EXTENSION OF TIME

Ex. Ord. No. 10385, Aug. 18, 1952, affected section by extending time for the removal of temporary housing from Dec. 31, 1952 to July 1, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1572, 1575, 1581, 1582, 1589a of this title.

SUBCHAPTER V. — DEFENSE HOUSING AND PUBLIC WORKS FOR DISTRICT OF COLUMBIA

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553, 1581, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title.

§ 1561. Appropriation for housing of United States employees; administration; disposition of housing.

(a) The sum of $30,000,000, to remain available until expended, is authorized to be appropriated for the purpose of enabling the Housing and Home Finance Agency to provide housing in or near the District of Columbia (including living quarters for single persons and for families) for employees of the United States whose duties are determined by the Housing and Home Finance Administrator to be essential to national defense and to require them to reside in or near the District of Columbia.

(b) In providing the housing for which an appropriation is authorized by subsection (a) of this section, the Housing and Home Finance Administrator is authorized to exercise all of the powers specified in subsections (a) and (b) of section 1521 of this title, subject to the limitations, upon exercise of such powers specified in such subsections.

(c) The funds authorized to be appropriated by this section shall be available to pay administrative expenses in connection with providing the housing for which such funds are authorized to be appropriated.

(d) The housing provided with funds authorized to be appropriated by this section may be sold and disposed of as expeditiously as possible: *Provided*, That in disposing of said housing consideration shall be given to its full market value and said housing or any part thereof shall not, unless specifically authorized by Congress, be conveyed to any public or private agency organized for slum clearance or to provide subsidized housing for persons of low income. (Oct. 14, 1940, ch. 862, title IV, § 401, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 212, and amended 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

SAVINGS CLAUSE

Termination of powers at end of emergency, savings clause, see section 1541 of this title.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3. See note set out under section 1521 of this title.

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

CONTINUATION OF PROVISIONS UNTIL JULY 1, 1953

Section 1 (a) (12) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates

as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1541 of this title.

§ 1562. Appropriations for public works projects; administration.

(a) The sum of $20,000,000, to remain available until expended, is authorized to be appropriated for the purpose of enabling the Administrator of General Services to provide public works and equipment therefor in and near the District of Columbia. Such public works may include, but shall not be limited to, schools, waterworks, sewers, public sanitary facilities, works for the treatment and purification of water, hospitals and other places for the care of the sick, recreational facilities, streets, roads, facilities for the disposal of sewage, garbage, and refuse, and other types of necessary public works.

(b) In providing the public works and equipment therefor for which appropriations are authorized by subsection (a) of this section, the Administrator of General Services is authorized to exercise all of the powers specified in subsections (a)—(c) of section 1532 of this title. Such public works and equipment therefor shall be provided subject to the provisions of section 1533 of this title.

(c) The funds authorized to be appropriated by this section shall be available to pay administrative expenses in connection with providing the public works and equipment therefor for which such funds are authorized to be appropriated. (Oct. 14, 1940, ch. 862, title IV, § 402, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 213, and amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380.)

SAVINGS CLAUSE

Termination of powers at end of emergency, savings clause, see section 1541 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

SECTIONS 1532 AND 1533 OF THIS TITLE

Functions under sections 1532 and 1533 of this title, referred to in subsec. (b), are now vested in the Housing and Home Finance Administrator. See notes under section 1532.

CONTINUATION OF PROVISIONS UNTIL JULY 1, 1953

Section 1 (a) (12) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1541, 1563 of this title.

§ 1563. Advancements to District of Columbia Commissioner for public works; availability; reports to Congress.

(a) The Commissioner of the District of Columbia is authorized to accept for the District of Columbia, and the Administrator of General Services is authorized to make to the District of Columbia, advancements for the provision of public works and equipment therefor, such advancements to be deposited with the Secretary of the Treasury to the credit of the District of Columbia.

(b) Sums advanced to the Commissioner of the District of Columbia hereunder shall be available for the provision, without reference to section 5 of Title 41, of any or all public works and equipment therefor described in section 1562 of this title, and for administrative expenses in connection therewith, including employment of engineering and other professional services and other technical and administrative personnel without reference to the civil-service requirements or chapter 51 and subchapter III of chapter 53 of Title 5. The repayment of any sums so advanced and the payment of interest thereon shall be in the same manner and subject to the same conditions as are set forth in sections 3 and 4 of the Act of December 20, 1941 (Public Law Numbered 362, Seventy-seventh Congress).

(c) The Commissioner shall submit with his annual estimates to the Congress a report of his activities and expenditures under this section. (Oct. 14, 1940, ch. 862, title IV, § 403, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 213, and amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; Reorg. Plan No. 3 of 1967, § 401, eff. Aug. 11, 1967, 32 F.R. 11669, 81 Stat. 948.)

REFERENCES IN TEXT

Act Dec. 20, 1941, ch. 604, §§ 3, 4, 55 Stat. 848, referred to in subsec. (b), related to repayment, by Commissioners of the District of Columbia, of moneys advanced by Federal Works Administrator for certain defense public works and equipment.

AMENDMENT

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923" in subsec. (b), which for purposes of classification has been translated as "chapter 51 and subchapter III of chapter 53 of Title 5".

TRANSFER OF FUNCTIONS

References to the Board of Commissioners of the District of Columbia have been changed to the Commissioner

of the District of Columbia pursuant to section 401 of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, which transferred the functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the Appendix to Title 5, Government Organization and Employees. See, also, effective date note under such plan.

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949, ch. 288, title I, 63 Stat. 380. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of that act. Section 103 is set out as section 753 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see note set out under section 471 of Title 40, Public Buildings, Property, and Works.

§ 1564. Definitions.

CODIFICATION

Section, act Oct. 14, 1940, ch. 862, title IV, § 404, as added Apr. 10, 1942, ch. 239, § 4, 56 Stat. 213, provided that as used in subchapters II—VII of this title, the terms "Federal Works Administrator" or "Administrator" or "Federal Works Agency", when used with respect to housing, shall be deemed to refer to the "National Housing Administrator" or the "National Housing Agency" and when used with respect to public works and equipment, shall be deemed to refer to the "Federal Works Administrator" or the "Federal Works Agency".

Functions of the Federal Works Administrator relating to defense housing had been consolidated with other agencies into the National Housing Agency during World War II by 1942 Ex. Ord. No. 9070, § 1, Feb. 24, 1942, 7 F. R. 1529.

1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, transferred the functions under sections 1521—1524, 1541—1550, 1552, 1553, 1561, 1571, and 1572 of this title to the Housing and Home Finance Administrator.

Functions under sections 1531—1534 of this title were transferred from the Federal Works Administrator to the Administrator of General Services by act June 30, 1949, ch. 288, title I, § 103 (a), 63 Stat. 380, and were transferred from the latter to Housing and Home Finance Administrator by 1950 Reorg. Plan No. 17, § 1, eff. May 24, 1950, 15 F. R. 3177, 64 Stat. 1269, set out in the Appendix to Title 5.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" by act Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

SUBCHAPTER VI.—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with veterans' re-use housing under sections 1571—1573 and 1575 of this title, see section 1701g-5 of Title 12, Banks and Banking.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553, 1581, 1584, 1585, 1586, 1588, 1589, 1589b, 1590 of this title; title 12 sections 1701g-5; 1745.

§ 1571. Construction of temporary housing facilities; rentals.

In those areas or localities where the Administrator shall find that an acute shortage of housing exists or impends and that, because of war restrictions, permanent housing cannot be provided in sufficient quantities when needed, the Administrator is authorized to exercise all of the powers specified in subchapters II and IV of this chapter, subject to all of the limitations upon the exercise of such powers contained in such subchapters, to provide housing for distressed families of servicemen and for veterans and their families who are affected by evictions or other unusual hardships (where their needs cannot be met through utilization of the existing housing supply, including housing under the jurisdiction of the Administrator): *Provided*, That any housing constructed under the provisions of this subchapter shall be undertaken only where the need cannot be met by moving existing housing and shall be of a temporary character subject to the removal provisions contained in subchapter IV of this chapter: *And provided further*, That the Administrator shall fix fair rentals for housing constructed or made available pursuant to this subchapter which shall be within the financial reach of families of servicemen and veterans with families. (Oct. 14, 1940, ch. 862, title V, § 501, as added June 23, 1945, ch. 192, 59 Stat. 260, and amended 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3.

CONTINUATION OF PROVISIONS UNTIL JULY 1, 1953

Section 1 (a) (12) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

CROSS REFERENCES

Establishment of income limitations for occupancy of housing, and effect on prior tenants, see section 1589b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1572 of this title and title 12 section 1701g-5.

§ 1572. Availability of funds.

(a) Appropriation; limitation on use; repayment of certain expenses.

To carry out the purposes of this subchapter, and for administrative expenses in connection therewith, any funds made available under subchapter II of this chapter are made available, and for such purposes there is also authorized to be appropriated the sum of $445,500,000: *Provided,* That none of the funds authorized in this section to be used for the purposes of this subchapter shall be used to construct any new temporary housing: *And provided further,* That any educational institution, State or political subdivision thereof, local public agency, or nonprofit organization which has incurred expenses in the relocation (including the costs of disassembling, transporting, site preparation, and re-erection but not including the costs of site acquisition or the installation of off-site utilities) of temporary housing or other facilities (but not including demountable houses) under the jurisdiction or control of the Housing and Home Finance Administrator for reuse in providing temporary housing for distressed families of servicemen and for veterans and their families shall, upon application therefor, be reimbursed for such expenses by said Administrator out of the funds made available by the First Deficiency Appropriation Act, 1946 (H. R. 4805) to carry out the purpose of sections 1571 to 1573 of this title.

(b) Transfer of surplus housing or facilities for use by educational institutions.

Upon request of the Housing and Home Finance Administrator, any Federal agency having jurisdiction or control of structures or facilities (including lands, improvements, equipment, materials, or furnishings) which are no longer required by such agency and which, in the determination of said Administrator, can be utilized to provide temporary housing for distressed families of servicemen, for veterans and their families, or for single veterans attending educational institutions or for members of faculties (including the families of such members) of educational institutions furnishing education and training to veterans under title II of the Servicemen's Readjustment Act of 1944, as amended, in accordance with this subchapter, may, notwithstanding any other provisions of law, transfer such structures or facilities to said Administrator, without reimbursement, for such use.

(c) Transfer of temporary housing to educational institutions, States and public agencies, and nonprofit organizations.

Without regard to the provisions of any other law, but subject to the removal provisions of section 1553 of this title, said Administrator may transfer, for such consideration and subject to such terms and conditions as he deems feasible under the circumstances, any temporary housing (intact or in panels suitable for reuse) under his jurisdiction to any educational institution, State or political subdivision thereof, local public agency, or nonprofit organization, for use or reuse in producing temporary housing for families of servicemen, for veterans and their families, or, in the discretion of the Administrator, for single veterans attending educational institutions or for members of faculties (including the families of such members) of educational institutions furnishing education and training to veterans under title II of the Servicemen's Readjustment Act of 1944, as amended.

(d) Transfer of structures and facilities; reimbursement of relocation or conversion costs.

Upon approval of an application, made by any educational institution, State or political subdivision thereof, local public agency, or nonprofit organization, for temporary housing for the purposes of this subchapter, the Housing and Home Finance Administrator, if he determines that such action will aid in expediting the provision of such temporary housing, may—

(1) transfer hereunder to the applicant structures or facilities necessary or suitable to provide such temporary housing; and

(2) contract to reimburse the applicant (including the making of advances) for the cost, as certified by the applicant and approved by the Administrator, in the relocation or conversion (including the costs of disassembling, transporting and reerecting structures and facilities, and connecting utilities from dwellings to mains, but not including the costs of site acquisition and preparation, or the installation of streets and utility mains) of such temporary housing and facilities.

(e) Definition of administrative expense.

The term "administrative expenses", as used in this section, shall be deemed to include administrative expenses of the Housing and Home Finance Agency in performing any functions with respect to priorities or allocations of materials or equipment for public or private housing, and of the Housing Expediter (including until June 30, 1946, those of any Government agencies in carrying out parts of the veterans' emergency housing program of the Housing Expediter authorized by existing law, to the extent that additional administrative expenses of such agencies are thereby involved) in performing

any functions with respect to facilitating the provision of veterans' housing authorized by existing law. (Oct. 14, 1940, ch. 862, title V, § 502, as added June 23, 1945, ch. 192, 59 Stat. 260, and amended Dec. 31, 1945, ch. 657, 59 Stat. 674; Mar. 28, 1946, ch. 118, §§ 1, 2, 60 Stat. 85; Aug. 8, 1946, ch. 917, § 1, 60 Stat. 958; May 31, 1947, ch. 91, § 1, 61 Stat. 128; 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73.)

REFERENCES IN TEXT

The Housing Expediter, referred to in subsec. (e), was abolished and the Office of the Housing Expediter was terminated and liquidated by act July 31, 1951, ch. 275, title II, § 202 (d), 65 Stat. 144, which was formerly classified to section 1898 (a) of Appendix to Title 50, War and National Defense.

Title II of the Servicemen's Readjustment Act of 1944, as amended, referred to in text, is title II of act June June 22, 1944, ch. 268, 56 Stat. 287.

First Deficiency Appropriation Act, 1946 (H. R. 4805), referred to in text, is act Dec. 28, 1945, ch. 589, 59 Stat. 632.

AMENDMENTS

1947—Subsec. (a). Act May 31, 1947, increased the appropriation from $410,000,000 to $445,500,000.

1946—Subsec. (a). Acts Aug. 8, 1946, and Mar. 28, 1946. Act Aug. 8, 1946, substituted "sections 1571—1573 of this title" for "this subchapter". Act Mar. 28, 1946, substituted "$410,000,000" for "$160,000,000".

Subsecs. (b) and (c). Act Aug. 8, 1946 extended use of housing to members of faculties and their families.

Subsec. (d). Act Mar. 28, 1946, added subsec. (d).

Subsec. (e). Acts Aug. 8, 1946, and Mar. 28, 1946. Act Aug. 8, 1946, substituted "section" for "subchapter". Act Mar. 28, 1946, added subsec.

1945—Act Dec. 31, 1945, added all text following "are made available".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3.

AVAILABILITY OF FUNDS

Section 2 of act May 31, 1947, provided: "That the additional funds herein authorized [by Act May 31, 1947] shall be available to carry out the purposes of sections 501, 502, and 503 of said Act of October 14, 1940, as amended [sections 1571—1573 of this title], but shall be available only for necessary expenses in (1) completing the provision of temporary housing for which a contract in writing with any educational institution, State or political subdivision thereof, local public agency, or nonprofit organization had been made prior to the enactment hereof pursuant to title V of said Act of October 14, 1940, as amended [sections 1571—1573 of this title]: *Provided,* That such additional funds shall not be available for completing suspended units with respect to which, prior to April 1, 1947, no expenditures were made by the Administrator or the only expenditures made by the Administrator were for dismantling or dismantling and transportation, and (2) reimbursing any such educational institution, State or political subdivision thereof, local public agency, or nonprofit organization (a) for funds expended by it in completing any such temporary housing (exclusive of the costs of site acquisition and preparation, or the installation of streets and utility mains), or (b) for the cost of utility and other work in connection with any such temporary housing performed by it for the Administrator on a reimbursable basis pursuant to section 502 (d) of said Act of October 14, 1940, as amended [section 1572 (d) of this title], and (3) making payment, to such educational institutions, States or political subdivisions thereof, local public agencies and nonprofit organizations of amounts equal to actual expenditures made by them prior to April 1, 1947, for costs of site acquisition and preparation, or installation of streets and utility mains, with respect to suspended units referred to in the proviso in clause (1) above."

ADDITIONAL APPROPRIATION

Joint Res. Apr. 12, 1946, ch. 135, 60 Stat. 88, provided for an additional appropriation of $253,727,000 to remain available until expended.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1581 of this title and title 12 section 1701g-5.

§ 1573. Definitions.

As used in this subchapter the term "families of servicemen" shall include the family of any person who is serving in the military or naval forces of the United States, and the term "veterans" shall include any person who has served in the military or naval forces of the United States during the present war and prior to such date thereafter as shall be determined by the President and who has been discharged or released therefrom under conditions other than dishonorable. (Oct. 14, 1940, ch. 862, title V, § 503, as added June 23, 1945, ch. 192, 59 Stat. 260, and amended June 30, 1953, ch. 174, § 1, 67 Stat. 132.)

AMENDMENTS

1953—Act June 30, 1953, inserted "and prior to * * * by the President" immediately following "during the present war."

CONTINUATION OF PROVISIONS UNTIL JULY 1, 1953

Section 1 (a) (21) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided that this section should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F. R. 9029, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

PERIOD OF SERVICE IN MILITARY OR NAVAL FORCES

Proc. No. 3080, Jan. 5, 1955, 20 F. R. 173, fixed Feb. 1, 1955, as the date prior to which persons must have served in the military or naval forces of the United States in order that such persons come within the meaning of the term "veterans" contained in this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1572 of this title and title 12 section 1701g-5.

§ 1574. Repealed. Oct. 31, 1951, ch. 654, § 1 (113), 65 Stat. 706.

Section, act Oct. 14, 1940, ch. 862, title V, § 504, as added Aug. 8, 1946, ch. 912, § 2, 60 Stat. 958, related to the use or reuse of structures or facilities of Federal agencies as educational facilities for persons receiving training courses or education under title II of the Servicemen's Readjustment Act of 1944, as amended.

§ 1575. Relinquishment of Government's rights in temporary housing on campuses or other educational lands.

(a) Filing of request; definition.

Upon the filing of a request therefor as herein provided, the Administrator shall relinquish and transfer, without monetary consideration, to any educational institution all contractual rights (including the right to revenues and other proceeds) and all property right, title, and interest of the United States in and with respect to any temporary housing located on land owned by such institution, or controlled by it and not held by the United States: *Provided,* That any net revenues or other proceeds from such housing to which the United States is entitled shall not cease, by virtue of this section, to accrue to the United States until the end of the month in which the rights, title, and interest with respect to such housing are relinquished and transferred hereunder, and the obligation of the transferee to pay such accrued amounts shall not be affected by this section: *And provided further,* That this shall not be deemed to require a transfer to an educational institution which has no contractual or other interest in the housing or the land on which it is located except that of a lessor. As used in this section, the term "temporary housing" shall include any housing (including trailers and other mobile or portable housing) constructed, acquired, or made available under this subchapter, and includes any structures, appurtenances, and other property, real or personal, acquired for or held in connection therewith.

(b) Time of filing request; legal opinion; effect of relinquishment; prompt action.

The filing of a request under this section must be made within one hundred and twenty days of June 28, 1948 and shall be authorized by the board of trustees or other governing body of the institution making the request. Such request shall be accompanied by an opinion of the chief law officer or legal counsel of the institution making the request to the effect that it has legal authority to make the request, to accept the transfer of and operate any property involved, and to perform its obligations under this section. The provisions of section 1553 of this title (and the contractual obligations of the educational institution to the Federal Government with respect thereto) shall cease to apply to any temporary housing to which rights are relinquished or transferred under this section if (and only if) the request therefor is supported by a resolution of the governing body of the municipality or county having jurisdiction in the area specifically approving the waiver of the requirements of said section 1553 of this title. The Administrator shall act as promptly as practicable on any request which complies with the provisions of this section and is fully supported as herein required.

(c) Priority in filling vacancies.

In filling vacancies in any housing for which rights are relinquished or transferred under subsection (a) of this section, preference shall be given to veterans or servicemen, who are students at the educational institution, and their families: *Provided,* That the educational institution shall be deemed to comply with this subsection if it makes available to veterans or servicemen and their families accommodations in any housing of the institution equal in number to the accommodations in the housing for which such rights are relinquished or transferred. (Oct. 14, 1940, ch. 862, title V, § 505, as added June 28, 1948, ch. 688, § 1, 62 Stat. 1062, and amended Apr. 20, 1950, ch. 94, title II, § 204, 64 Stat. 73; Oct. 26, 1951, ch. 577, § 2, 65 Stat. 648.)

AMENDMENTS

1951—Subsec. (c). Act Oct. 26, 1951, struck out "of World War II" thus making section applicable to veterans of Korean War.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

The "Housing and Home Finance Administrator" and the "Housing and Home Finance Agency" were substituted for the "National Housing Administrator" and the "National Housing Agency" wherever appearing by act Apr. 20, 1950. This identical substitution was also made by 1947 Reorg. Plan No. 3, §§ 1, 4 (a), 9, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFERS TO HOWARD UNIVERSITY; PROVISIONS FOR RETAKING

Sections 5 and 6 of act June 28, 1948, provided:

"Sec. 5. The Defense Homes Corporation is authorized to convey, without reimbursement therefor, to Howard University, a corporation organized pursuant to an Act of Congress, all of its right, title, and interest in certain lands in the District of Columbia, together with the improvements constructed thereon and the personal property used in connection therewith, and commonly known as Lucy Diggs Slowe Hall, 1919 Third Street Northwest, and George Washington Carver Hall, 211 Elm Street Northwest: *Provided,* That no employee of the United States or of the District of Columbia who, on the date of approval of this Act [June 28, 1948], is a tenant of either Lucy Diggs Slowe Hall or George Washington Carver Hall shall, unless quarters were assigned to such tenant on a transient basis or on the sole basis that the tenant was enrolled at an educational institution, be evicted from such halls within four years after the approval of this Act [June 28, 1948], except where such tenant commits a nuisance or otherwise violates any obligation of tenancy.

"The Reconstruction Finance Corporation is hereby authorized and directed to discharge the indebtedness of the Defense Homes Corporation to the Reconstruction Finance Corporation in an amount equal to the Defense Homes Corporation's net investment in these properties as of the date of transfer, as determined by the President of the Defense Homes Corporation, and the Secretary of the Treasury is authorized and directed to discharge the indebtedness of the Reconstruction Finance Corporation to the Treasury in like amount as of the same date.

"Sec. 6. The right, title, and interest in any lands, together with the improvements constructed thereon, which are conveyed pursuant to the authority granted by section 5 hereof, shall revert to the United States upon a written finding made by the President prior to July 1, 1963, that the property is needed by the United States in connection with a national defense emergency."

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, referred to in section 5 of act June 28, 1948, set out as a note under this section, was abolished by section 6(a) of 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out as a note under section 601 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1582, 1590 of this title and title 12 section 1701g-5.

§ 1576. Relinquishment of title to temporary housing to State, county, city, or other public body.

CODIFICATION

Section, acts Aug. 24, 1949, ch. 506, title II, § 201, 63 Stat. 659; Sept. 6, 1950, ch. 896, ch. VIII, title II, § 201, 64 Stat. 723, which was not repeated in the Independent Offices Appropriation Act, 1952, act Aug. 31, 1951, ch. 376, 65 Stat. 268, provided that application for relinquishment had to be filed by Dec. 30, 1950.

Former section was enacted as a part of the Independent Offices Appropriation Act, 1951, and not as a part of title V of the Lanham Public War Housing Act, which comprises this subchapter.

SUBCHAPTER VII.—DISPOSAL OF WAR AND VETERANS' HOUSING

CROSS REFERENCES

Extension of dates for disposal and other actions relating to housing under this chapter, see section 1589a of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1522, 1524, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1553 of this title.

§ 1581. Housing disposition.

(a) Mandatory transfers.

Upon the filing of a request therefor as herein prescribed, the Administrator shall (subject to the provisions of this section) relinquish and transfer, without monetary consideration, to any State or political subdivision thereof, local housing authority, local public agency, nonprofit organization, or educational institution, all contractual rights (including the right to revenues and other proceeds) and all property right, title, and interest of the United States in and with respect to (1) any temporary housing located on land owned or controlled by such transferee and in which the United States has no leasehold or other property interest, and (2) housing materials which have been made available to the transferee by the Administrator pursuant to section 1572 of this title.

(b) Transfer to provide housing for parents of deceased World War II servicemen.

Upon the filing of a request therefor as herein prescribed, the Administrator may (subject to the provisions of this section) relinquish and transfer, without monetary consideration other than that specifically required by this subsection, to any State, county, municipality, or local housing authority, or to any educational institution where the housing involved is being operated for its student veterans or where the land underlying the housing is in the ownership of two or more educational institutions, or to any other local public agency or nonprofit organization where the housing involved has been made available by the United States to such agency or organization pursuant to section 1572 of this title or where the Administrator determines that the housing involved is urgently needed by parents of persons who served in the armed forces at any time on or after September 16, 1940, and prior to July 26, 1947, or on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President and died of service-connected illness or injury (in which case the preferences in subsection (d) (1) of this section shall not apply), all right, title, and interest of the United States in and with respect to any temporary housing (excluding commercial facilities which the Administrator determines are suitable for separate disposal and community facilities which the Administrator determines should be disposed of separately) located on land in which the United States has a property interest through ownership, lease, or otherwise, under the following conditions:

(1) If the land is owned by the United States and under the jurisdiction of the Administrator, the transferee shall have purchased such land from the Administrator at a price substantially equal to the cost to the United States of the land (including survey, title examination, and other similar expenses incident to acquisition but excluding the cost or value of all improvements thereto by the United States other than extraordinary fill), or, if the Administrator determines the amount of such cost to be nominal or not readily ascertainable, at a price which the Administrator determines to be fair and reasonable. Payment for such land shall be made in full at the time of sale or in not more than ten equal annual installments (the first of which shall be paid within one year from the date of conveyance) all of which shall be secured as determined by the Administrator with interest from the date of conveyance at the going Federal rate of interest at the time of conveyance.

(2) If the land is owned by the United States and not under the jurisdiction of the Administrator, the transferee shall have purchased such land from the Federal agency having jurisdiction thereof. The Federal agency having jurisdiction of any such land is authorized to sell and convey the same to any such transferee on the terms authorized herein except that the determinations required to be made by the Administrator shall be made by the agency having jurisdiction of such land.

(3) If the United States does not own the land but has an interest therein through lease or otherwise, the transferee shall (i) where it is not the landowner, obtain the right to possession of such land for a term satisfactory to the Administrator, (ii) obtain from the landowner a release (or, if the transferee is the landowner, furnish a release) of the United States from all liability in connection therewith, including any liability for removal of structures or restoration of the land, except for any rental or use payment due at the time of

transfer, and (iii) reimburse the United States for the proportionate amount of any payments made by the United States for the right to use the land and for taxes or payments in lieu of taxes for any period extending beyond the time of the transfer, and (iv) if the interest of the United States is not under the jurisdiction of the Administrator, the transferee shall obtain a transfer or release of the interest of the United States from the Federal agency having jurisdiction, which transfers and releases by such Federal agencies are authorized on such terms as the head of the respective agency determines to be in the public interest.

(c) Requests for relinquishment and transfer.

The filing of a request under subsections (a), (b), (g), or (h) of this section must be made on or before June 30, 1953, unless the Administrator shall, in any specific case, authorize the filing of a request subsequent to such date but on or before June 30, 1951,[1] and, in any such case, the Administrator may extend, for a specified period not beyond December 31, 1951, the time hereinafter prescribed for complying with all conditions to the relinquishment or transfer. Such request shall be in the form of a resolution adopted by the governing body of the applicant, except that, in the case of a State, such request may be in the form of a written request from the governor, and, in the case of a local housing authority (other than the Alaska Housing Authority), or a local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment, shall be accompanied by a resolution of the governing body of the municipality or county approving the request for transfer. Such request shall be accompanied by either (1) a final opinion of the chief law officer or legal counsel of the applicant to the effect that it has legal authority to make the request, to accept the transfer of and operate any property involved, and to perform its obligations under this title, or (2) a preliminary opinion of such officer or counsel concerning the legal authority of the applicant with respect to the proposed relinquishment or transfer including a statement of the reasons for not furnishing the final opinion with the request and the time required to furnish such opinion. If a request has been submitted as herein provided, the applicant shall comply with all conditions to the relinquishment or transfer (including the furnishing of the final legal opinion) on or before June 30, 1953: *Provided,* That, in any case where the applicant is unable to comply with all conditions to the relinquishment or transfer because of the need for the enactment of State legislation or charter amendment, such date shall be June 30, 1952, and may be extended by the Administrator, upon request in a particular case, to December 31, 1952. The Administrator shall act as promptly as practicable on any request which complies with the provisions of this section and is supported as herein required, and shall as promptly as practicable arrange for the making of any survey or the performance of other work necessary to the transfer: *Provided,* That, notwithstanding the provisions of this section, the Administrator may at any time, except with respect to housing for which a request has been or may be submitted under subsection (a) of this section, remove, dispose of, or retain any temporary housing, or part thereof, in accordance with any provision of subchapters II–VII of this chapter.

(d) Representations by transferee as to use of property; preferences.

No relinquishment or transfer with respect to temporary housing shall be made under this section unless the transferee represents in its request therefor that it proposes, to the extent permitted by law:

(1) As among eligible applicants for occupancy in dwellings of given sizes and at specified rents, to extend the following preferences in the selection of tenants:

First, to families which are to be displaced by any low-rent housing project or by any public slum-clearance or redevelopment project initiated after January 1, 1947, or which were so displaced within three years prior to making application for admission to such housing; and as among such families first preference shall be given to families of disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected, and second preference shall be given to families of deceased veterans and servicemen whose death has been determined by the Veterans' Administration to be service-connected, and third preference shall be given to families of other veterans and servicemen;

Second, to families of other veterans and servicemen; and as among such families first preference shall be given to families of disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected, and second preference shall be given to families of deceased veterans and servicemen whose death has been determined by the Veterans' Administration to be service-connected: *Provided,* That if the transferee is an educational institution it may limit such preferences to student veterans and servicemen, and their families, and may, in lieu of such preferences, make available to veterans or servicemen and their familes accommodations in any housing of the institution equal in number to the accommodations relinquished or transferred to it: *And provided further,* That, notwithstanding such preferences, if the transferee is a State, political subdivision, local housing authority, or local public agency, it will, in filling vacancies in housing transferred under subsection (b) of this section, give such preferences to military personnel and persons engaged in national defense or mobilization activities as the Secretary of Defense or his designee prescribes to such transferee.

(2) Not to dispose of any right, title, or interest in the property (by sale, transfer, grant, exchange, mortgage, lease, release, termination of the leasehold, or any other relinquishment of interest) either (i) for housing use on the present site or on any other site except to a State or political subdivision thereof, local housing authority, a local public agency, or an educational or elee-

[1] So in original.

mosynary institution, or (ii) for any other use unless the governing body of the municipality or county shall have adopted a resolution determining that, on the basis of local need and acceptability, the structures involved are satisfactory for such use and need not be removed: *Provided,* That this representation will not apply to any disposal through demolition for salvage, lease to tenants for residential occupancy, or lease of nondwelling facilities for the continuance of a use existing on the date of transfer, or where such disposal is the result of a bona fide foreclosure or other proceeding to enforce rights given as security for a loan to pay for land under this section: *And provided further,* That nothing contained in this paragraph shall be construed as applicable to the disposition of any land or interest therein after the removal of the structures therefrom.

(3) To manage and operate the property involved in accordance with sound business practices, including the establishment of adequate reserves.

(4) Whenever the structures involved, or a substantial portion thereof, are terminated for housing use and are not to be used for a specific nonhousing use, to promptly demolish such structures terminated for housing use and clear the site thereof.

(e) Waiver of removal requirements.

Any relinquishment or transfer by the Administrator under this section shall constitute a waiver of the requirements of section 1553 of this title (and any contractual obligations pursuant thereto) for removing the housing involved if the request for such relinquishment or transfer was made, as authorized herein, by the governing body of the municipality or county, or by the local housing authority, or, in other cases, if, prior to or within six months after the date of the relinquishment or transfer, there is filed with the Administrator a resolution of such governing body specifically approving (1) the unconditional waiver of such requirements or (2) the waiver of such requirements subject to conditions specified in the resolution. Any such conditions shall not affect the waiver of removal requirements hereunder, and the United States shall assume no responsibility for compliance therewith.

(f) Disposition of net revenue and proceeds; transfer charges.

In any relinquishment or transfer under this section, the net revenues and other proceeds from such housing to which the United States is entitled on the basis of periodic settlements shall continue to accrue to the United States until the end of the month in which the relinquishment or transfer is made, and the obligation of the transferee to pay such accrued amounts shall not be affected by this section. The Administrator may charge to the transferee the cost to the United States of any survey, title information, or other item incidental to the transfer.

(g) Transfers for slum clearance and community redevelopment projects.

Upon the filing of a request therefor as herein prescribed, the Administrator may (subject to the provisions of this section) relinquish and transfer, without monetary consideration other than payment for land involved as specifically required by subsection (b) of this section, to any local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment in a municipality in which the total number of persons, who on December 31, 1948, were living in temporary family accommodations provided by the United States or any agency thereof since September 8, 1939, exceeded the total population of such municipality as shown by the 1940 census, all right, title, and interest of the United States in and with respect to any temporary housing located in such municipality under the conditions set forth in subsection (b) of this section. Notwithstanding the provisions of subsection (b) of this section, the Administrator shall not relinquish or transfer any right, title, or interest of the United States in and with respect to any temporary housing situated in such a municipality except as set forth in this subsection if at the time of the relinquishment or transfer there is in existence in such a municipality a local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment.

(h) Transfers of temporary housing of masonry construction.

Upon the filing of a request therefor as herein prescribed, the Administrator may (subject to the provisions of this section except the provisions of subsection (d) of this section) relinquish and transfer to any municipality, without monetary consideration other than payment for the land involved as specifically required by subsection (b) of this section, all right, title, and interest of the United States in and with respect to unoccupied temporary housing of masonry construction located in such municipality: *Provided,* That such housing has been wholly or partially stripped of trim and fixtures prior to April 20, 1950 and the municipality adopts a resolution determining that the structures, with proposed improvements, will be suitable for long-term housing use. (Oct. 14, 1940, ch. 862, title VI, § 601, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended by Ex. Ord. No. 10284, Sept. 4, 1951, §§ 1, 2, 16 F. R. 8971; Oct. 26, 1951, ch. 577, § 2, 65 Stat. 648; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F. R. 3012; Ex. Ord. No. 10395, eff. Sept. 19, 1952, 17 F. R. 8449; Ex. Ord. No. 10425, eff. Jan. 16, 1953, 18 F. R. 405; Feb. 15, 1956, ch. 35, 70 Stat. 15.)

REFERENCES IN TEXT

Subchapters II—VII of this chapter, referred to in subsec. (c), in the original reads "this Act", meaning act Oct. 14, 1940, which is set out in such subchapters.

AMENDMENTS

1956—Subsec. (g). Act Feb. 15, 1956, limited the restriction on transfer or relinquishment of temporary housing to a local public slum clearance agency to municipalities having such an agency at time of transfer or relinquishment.

1951—Subsec. (b). Act Oct. 26, 1951, struck out "during World War II" following "in the armed forces" and to substitute in lieu thereof "at any time * * * by the President" thus making section applicable to veterans of Korean war.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

EX. ORD. NO. 10284. EXTENSION OF TIME

Subsec. (c) was affected by Ex. Ord. 10284, Sept. 4, 1951, which extended the time for filing requests from Dec. 31, 1950, to Dec. 31, 1951, and extended the time for compliance with all conditions to relinquishments or transfers from June 30, 1951, to June 30, 1952. See note under section 1589a of this title.

EX. ORD. NO. 10339. EXTENSION OF TIME

Subsec. (c) was affected by Ex. Ord. No. 10339, Apr. 7, 1952, which extended the time for filing requests under subsecs. (a), (b), and (g) from Dec. 31, 1951, to Dec. 31, 1952, and extended the time for compliance with all conditions to relinquishments or transfers under subsecs. (a), (b), and (g) from June 30, 1952, to June 30, 1953. See note under section 1589a of this section.

EX. ORD. NO. 10395. EXTENSION OF TIME

Subsec. (c) was affected by Ex. Ord. No. 10395, Sept. 19, 1952, which extended the time for filing requests under subsec. (h) from Dec. 31, 1951, to Dec. 31, 1952 and extended the time for compliance with all conditions to relinquishments or transfers under subsec. (h) from June 30, 1952, to June 30, 1953. See note under section 1589a of this title.

EX. ORD. NO. 10425. EXTENSION OF TIME

Subsec. (c) was affected by Ex. Ord. No. 10425, Jan. 16, 1953, which extended the time for filing requests under subsecs. (a), (b), (g), and (h) from Dec. 31, 1952, to June 30, 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1582, 1584, 1585 of this title.

§ 1582. Temporary housing exempted from provisions of section 1553 of this title.

The requirements of section 1553 of this title shall not apply to any temporary housing—

(a) for which such requirements have been waived pursuant to section 1575 or section 1581 of this title;

(b) transferred by the Administrator to the jurisdiction of the Department of the Army, the Navy, or the Air Force pursuant to section 1524 of this title;

(c) disposed of by the Administrator under subchapter II or IV of this chapter for long-term housing or nonhousing use without any requirement for removal where the governing body of the municipality or county has adopted a resolution determining that, on the basis of local need and acceptability, the structures involved are (1) satisfactory for such long-term use or (2) satisfactory for such long-term use if conditions prescribed in such resolution, affecting the physical characteristics of the project, are met: *Provided*, That any such conditions shall not affect the disposal of any temporary housing hereunder, and the United States shall assume no responsibility for compliance with such conditions: *And provided further*, That any housing disposed of for housing use in accordance with this subsection shall thereafter be deemed to be housing accommodations, the construction of which was completed after June 30, 1947, within the meaning of section 1884 of Appendix to Title 50, relating to preference or priority to veterans or their families; or

(d) disposed of or relinquished by the Administrator prior to April 20, 1950, subject to such requirements or contractual obligations pursuant thereto, where the governing body of the municipality or county on or before December 31, 1950, adopts a resolution as provided in subsection (c) of this section; and any contract obligations to the Federal Government for the removal of such housing shall be relinquished upon the filing of such a resolution with the Administrator. (Oct. 14, 1940, ch. 862, title VI, § 602, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Oct. 26, 1951, ch. 577, § 2, 65 Stat. 648.)

REFERENCES IN TEXT

Subchapters II or IV of this chapter, referred to in subsec. (c), in the original reads "title I or title III of this Act", meaning title I or III of act of Oct. 14, 1940, which is set out in such subchapters.

AMENDMENTS

1951—Subsec. (c). Act Oct. 26, 1951, struck "of World War II" thus making section applicable to veterans of Korean war.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1584 of this title.

§ 1583. Redetermination of demountable housing as temporary or permanent.

With respect to any housing classified, prior to April 20, 1950, by the Administrator as demountable, the Administrator shall, as soon as practicable but not later in any event than December 31, 1950, and after consultation with the communities affected, redetermine (taking into consideration local standards and conditions) whether such housing is of a temporary or permanent character, and after such redetermination shall dispose of such housing in accordance with the provisions of this subchapter. (Oct. 14, 1940, ch. 862, title VI, § 603, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669,

classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1585 of this title.

§ 1584. Removal of all dwelling structures on land under Administrator's control; temporary housing exempted; preference in fulfilling vacancies.

With respect to temporary housing remaining under the jurisdiction of the Administrator on land under his control, the Administrator shall (1) permit vacancies, occurring or continuing after July 1, 1953, to be filled only by transfer of tenants of other accommodations in the same locality being removed as required by subchapters II—VII of this chapter; (2) notify, on or before March 31, 1954, all tenants to vacate the premises prior to July 1, 1954; (3) promptly after July 1, 1954, cause actions to be instituted to evict any tenants still remaining; and (4) remove (by demolition or otherwise) all dwelling structures as soon as practicable after they become vacant: *Provided,* That in any case where a request for relinquishment or transfer has been filed pursuant to section 1581 of this title and where under the provisions of section 1581 (c) of this title the date for compliance with all conditions to the relinquishment or transfer shall have been extended, each of the foregoing dates shall be extended for a period of time equal to the period of the extension under section 1581 (c) of this title: *And provided further,* That nothing heretofore in this section shall apply (1) to any temporary housing in any municipality in which the total number of persons, who on December 31, 1948, were living in temporary family accommodations provided by the United States or any agency thereof since September 8, 1939, exceeds 30 per centum of the total population of such municipality as shown by the 1940 census, nor (2) to any temporary housing as to which the local governing body has adopted a resolution as provided in section 1582 (c) of this title, nor (3) to any temporary housing for which a request has been submitted in accordance with section 1581 (b) of this title, but which has not been relinquished or transferred solely because the applicant has been unable to obtain from the landowner the right to possession of the land on reasonable terms as determined by the Administrator: *Provided,* That, in filling vacancies in such housing, the preferences set forth in section 1581 (d) (1) of this title shall be applicable and that families within such preference classes shall be eligible for admission to such housing, nor (4) to any temporary housing in which accommodations have been reserved, prior to the enactment of this section, for veterans attending an educational institution if (i) such institution certifies that the accommodations are urgently needed for such veterans and submits facts showing, to the satisfaction of the Administrator, that all reasonable efforts have been made by the institution to find other accommodations for them and (ii) such institution agrees to reimburse the Housing and Home Finance Agency for any financial loss to the Agency in the operation of the accommodations after June 30, 1951. (Oct. 14, 1940, ch. 862, title VI, § 604, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended June 30, 1951, ch. 197, 65 Stat. 110; Sept. 1, 1951, ch. 378, title VI, § 603 (a), 65 Stat. 314; Ex. Ord. No. 10284, Sept. 4, 1951, §§ 3—5, 16 F. R. 8971; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F. R. 3012.)

REFERENCES IN TEXT

"Subchapters II—VII of this chapter", referred to in the text, in the original reads "this Act", meaning act Oct. 14, 1940, which is set out in such subchapters.

AMENDMENTS

1951—Act Sept. 1, 1951, repealed former fourth and fifth provisos which related to adjustments in rentals that might be set for Government-owned temporary housing.

Act June 30, 1951, substituted "August 15, 1951" for "July 1, 1951".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

EX. ORD. NO. 10284. EXTENSION OF TIME

Ex. Ord. 10284 affected section by extending time for filling vacancies from August 15, 1951 to July 1, 1952, for notices to vacate premises from March 31, 1952 to March 31, 1953, for time of vacating from July 1, 1952 to July 1, 1953, and for eviction from July 1, 1952 to July 1, 1953. See note set out under section 1589a of this title.

EX. ORD. NO. 10339. EXTENSION OF TIME

Ex. Ord. No. 10339, Apr. 7, 1952, affected section by extending time for filling vacancies from July 1, 1952 to July 1, 1953, for notices to vacate premises from Mar. 31, 1953, to Mar. 31, 1954, for time of vacating from July 1, 1953, to July 1, 1954, and for eviction from July 1, 1953, to July 1, 1954. Said Ex. Ord. is set out as a note under section 1589a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1553 of this title.

§ 1585. Acquisition of housing sites.

(a) Lease, condemnation or purchase; temporary housing.

The Administrator may continue by lease or condemnation any interest less than a fee simple in lands heretofore acquired by the Administrator for national defense or war housing or for veterans' housing (whether of permanent or temporary character), or held by any Federal agency in connection therewith, and may acquire, by purchase or condemnation, a fee simple title to or lesser interest in any such lands if the Administrator determines that the acquisition of such fee simple or lesser interest is necessary to protect the Government's investment

or to maintain the improvements constructed thereon, or that the cost of fulfilling the Government's obligation to restore the property to its original condition would equal or exceed the cost of acquiring the title thereto.

In any city in which, on March 1, 1953, there were more than ten thousand temporary housing units held by the United States of America, or any two contiguous cities in one of which there were on such date more than ten thousand temporary housing units so held, the Administrator may acquire, by purchase or condemnation, a fee simple title to any or all lands in which the Administrator holds a leasehold interest, or other interest less than a fee simple, acquired by the Federal Government for national defense or war housing or for veteran's housing where (1) the Administrator finds that the acquisition by him of a fee simple title in the land will tend to expedite the orderly disposal or removal of temporary housing under his jurisdiction by facilitating the availability of improved sites for privately owned housing needed to replace such temporary housing, and will tend to expedite the transition of the city from a war-affected community containing, as of said date, a large number of temporary houses to a community having additional permanent, well-planned, residential neighborhoods, (2) the local governing body of the city makes a like finding and requests the Administrator to acquire such title to the land, and (3) the city has furnished assurances satisfactory to the Administrator that no individual who is employed by, or is an official of, the government of the city in which the land is located, or any agency thereof, shall be permitted, directly or indirectly, to have any financial interest in the purchase or redevelopment of such land: *Provided,* That such acquisitions by the Administrator pursuant to this sentence shall be limited to not exceeding four hundred and twenty-five acres of land in the general area in which approximately one thousand five hundred units of temporary housing held by the United States of America were unoccupied on said date: *And provided further,* That funds for such acquisition by the Administrator, which are authorized, pursuant to subsection (c) of this section and title II of the Independent Offices Appropriation Act, 1955, to be expended from the revolving fund established by section 1701g–5 of Title 12, shall be taken into consideration, to the extent that they are needed, in making any determination pursuant to the second proviso under that section. All or any part of any land so acquired by the Administrator may, during the five year period following the date of its acquisition, be sold by the Administrator, through negotiated sale, to such city or any local public agency where (1) the city or local public agency has represented to the Administrator that it is duly authorized under State law to purchase and resell such land, that such land will be made available to private enterprise for development in accordance with local zoning and other laws, and that the aggregate of such land and any other land in the same city previously sold under the authority of this paragraph to the city or a local public agency will be developed for predominantly residential use, and (2) the city or local public agency has agreed to pay the fair market value of the land as determined by the Administrator, after giving consideration, among other relevant information, to the cost to the Federal Government of acquiring the fee simple title and of holding the land pending sale (including estimated amounts to cover legal and overhead expenses of such acquisition and to cover interest costs to the Federal Government of monies invested in the land pending sale). Any such negotiated sale of land to the city or a local public agency shall be made upon terms which require (1) that the city or public agency shall pay in cash at least one third of the price of the land upon its conveyance and the entire price within one year after its conveyance and (2) that any portion of the entire price not paid upon such conveyance shall be represented by an indebtedness which shall bear interest on outstanding balances at a rate of 4 per centum per annum and which shall be secured by a first mortgage lien upon the land or such portion of the land as the Administrator deems adequate to protect the financial interest of the Federal Government. The Administrator may, at any time that he deems it to be in the public interest to do so, dispose, under authority of other provisions of subchapters II—VII of this chapter, of any land acquired by him pursuant to this paragraph. Any land acquired by the Administrator pursuant to this paragraph which has not been disposed of within five years after its acquisition shall be disposed of by him as expeditiously as possible in the public interest in accordance with other authority contained in subchapter II—VII of this chapter. Notwithstanding the provisions of section 1546 of this title or any other provisions of law, no payments in lieu of taxes shall be made for any tax year beginning subsequent to the date of the acquisition of title to the property by the Administrator.

(b) Land rentals.

In any case in which the Administrator holds, on or after April 1, 1950, an interest in land acquired by the Federal Government for national defense, war housing, or veterans' housing and where (1) the term of such interest (as prescribed in the taking or in the lease or other instruments) is for the "duration of the emergency" or "duration of the war", or "duration of the emergency" or "duration of the war" plus a specific period thereafter, or for some similarly prescribed term, and (2) the rental, award, or other consideration which the Federal Government is obligated to pay or furnish for such interest gives the owner of the land less than an annual return, after payment of real estate taxes, of 6 per centum of the lowest value placed on such land by an independent appraiser, hired by the Government to make such appraisal based on the value of the land before the acquisition of the Government's interest therein, plus 100 per centum of such value, the Administrator shall, upon request of the owner of the land and, notwithstanding any existing contractual or other rights or obligations, increase the amount of future payments for such interest in order to give the owner of the land a return for the Government's use thereof not exceeding the 6 per centum annual return described in (2) of this subsection: *Provided,* That this subsection shall not affect any payment heretofore made or any future payment accepted by an

obligee, nor shall this subsection limit the consideration which may be paid for the use of any land beyond the existing term of the Government's interest therein.

(c) Reserve account; availability of moneys.

Notwithstanding any other provisions of law unless hereafter enacted expressly in limitation hereof, moneys shall be deposited in the reserve account established pursuant to subsections (a) and (b) of section 1543 of this title (which account is continued subject to the limitation as to amount specified in subsection (c) of section 1543 of this title) and all moneys deposited in such reserve account shall be and remain available for any or all of the purposes specified in said subsections (a) or (b) of section 1543 of this title or in this section without regard to the time prescribed in subsection (c) of section 1543 of this title with respect to covering moneys in such account into miscellaneous receipts. Moneys in such reserve accounts shall also be available for the payment of necessary expenses (which shall be considered nonadministrative expenses) in connection with administering (1) transfers pursuant to section 1581 of this title, (2) redeterminations of the temporary or permanent character of demountable housing pursuant to section 1583 of this title, (3) changes in land tenure and revisions in the consideration payable to landowners pursuant to subsections (a) and (b) of this section, and (4) transfers of permanent war housing for low-rent use pursuant to section 1586 of this title. Moneys in such reserve account shall also be available for the purpose of making improvements to, or alterations of, any permanent housing or part thereof if (1) the dwelling structures therein are designed for occupancy by not more than four families and are to be sold separately and (2) such improvement or alteration is requested by the local governing body as a condition to the acceptance of the dedication of streets or utilities or is necessary for compliance with local law or regulation relating to the continued operation or occupancy of the housing by a purchaser. (Oct. 14, 1940, ch. 862, title VI, § 605, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Sept 1, 1951, ch. 378, title VI, § 603 (b), (c), 65 Stat. 314; Aug. 2, 1954, ch. 649, title VIII, § 805 (1), 68 Stat. 644; Aug. 11, 1955, ch. 783, title I, § 108 (d), 69 Stat. 638.)

REFERENCES IN TEXT

Title II of the Independent Offices Appropriation Act, 1955, referred to in subsec. (a), was classified in part to section 1431 of this title and section 1701g-5 of Title 12, Banks and Banking.

Subchapters II—VII of this chapter, referred to in subsec. (a), in the original reads "this Act", meaning act of Oct. 14, 1940, which is set out in such subchapters.

AMENDMENTS

1955—Subsec. (a). Act Aug. 11, 1955, authorized the Administrator to acquire a fee simple title to lands where he finds that such acquisition will tend to expedite the transition of the city from a war-affected community containing a large number of temporary houses to a community having additional permanent, well-planned, residential neighborhoods.

1954—Subsec. (a). Act Aug. 2, 1954, added second paragraph.

1951—Subsec. (b). Act Sept. 1, 1951, in clause (2), inserted "plus 100 per centum of such value", substituted "shall" for "is authorized" after "Administrator", and substituted "increase" for "to increase".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

§ 1586. Sale of specific housing projects.

(a) Conditions precedent.

The Administrator is specifically authorized to convey the following housing projects to the following local public housing agencies respectively, if—

(1) on or before January 30, 1953, (i) the conveyance is requested by the governing body of the municipality or county and (ii) the public housing agency has demonstrated to the satisfaction of the Administrator that there is a need for low-rent housing (as such term is defined in the United States Housing Act of 1937) within the area of operation of such public housing agency which is not being met by private enterprise;

(2) the Administrator determines that the project requested will meet such need in whole or in part, and is suitable for low-rent housing use; and

(3) on or before June 30, 1953, the governing body of the municipality or county enters into an agreement with the public housing agency (satisfactory to the Public Housing Administration, hereinafter referred to as "Administration") providing for local cooperation and payments in lieu of taxes not in excess of the amount permitted by subsection (c) (5) of this section, and the public housing agency enters into an agreement with the Administration (in accordance with subsection (c) of this section) or for the administration of the project:

State	*Project number*	*Local public housing agency*
Alabama	1041	Housing Authority of District of Birmingham.
	1061	Housing Authority of Greater Gadsden.
	1062	Housing Authority of Greater Gadsden.
	1031	Housing Board of Mobile.
	1033	Housing Board of Mobile.
	1034	Housing Board of Mobile.
	1035	Housing Board of Mobile.
	1036	Housing Board of Mobile.
	1101	Housing Board of Mobile.
	1102	Housing Board of Mobile.
	1072	Housing Authority of Sylacauga.
	1076	Housing Authority of Sylacauga.
	1073	Housing Authority of City of Talladega.
Arkansas	3023	Housing Authority of City of Conway.
California	4031	Housing Authority of City of Fresno.
	4161	Housing Authority of County of Kern.
	4141	Housing Authority of County of Kern.
	4103	Housing Authority of City of Los Angeles.
	4104	Housing Authority of City of Los Angeles.
	4108	Housing Authority of City of Los Angeles.
	4121	Housing Authority of City of Paso Robles.
	4171	Housing Authority of City of Richmond.
	4174	Housing Authority of City of Richmond.
Connecticut	6091	Housing Authority of City of Bristol.
	6024	Housing Authority of Town of East Hartford.
	6031	Housing Authority of City of New Britain.
	6032	Housing Authority of City of New Britain.
	6101	Housing Authority of City of New Haven.
	6041	Housing Authority of City of Waterbury.
	6213	Housing Authority of City of Waterbury.

State	Project number	Local public housing agency
District of Columbia.	49012	National Capital Housing Authority.
	49017	National Capital Housing Authority.
	49044	National Capital Housing Authority.
Florida	8052	Housing Authority of City of Jacksonville.
	8121	Housing Authority of City of Lakeland.
	8062	Housing Authority of City of Miami.
	8011	Housing Authority of City of Orlando.
	8082	Housing Authority of City of Pensacola.
	8084	Housing Authority of City of Pensacola.
	8085	Housing Authority of City of Pensacola.
	8131	Housing Authority of City of Sebring.
	8041	Housing Authority of City of West Palm Beach.
Georgia	9071	Housing Authority of City of Albany.
	9061	Housing Authority of Macon.
	9063	Housing Authority of Macon.
	9041	Housing Authority of Savannah.
	9042	Housing Authority of Savannah.
	9043	Housing Authority of Savannah.
Illinois	11081	Madison County Housing Authority.
	11082	Madison County Housing Authority.
	11111	Winnebago County Housing Authority.
	11112	Winnebago County Housing Authority.
Indiana	12071	Housing Authority of City of Fort Wayne.
	12021	Housing Authority of City of South Bend.
Louisiana	16051	Housing Authority of Parish of East Baton Rouge.
Maryland	18095	Housing Authority of Baltimore City.
	18096	Housing Authority of Baltimore City.
	18097	Housing Authority of Baltimore City.
	18098	Housing Authority of Baltimore City.
Massachusetts	19051	Boston Housing Authority.
	19021	Chicopee Housing Authority.
	19022	Chicopee Housing Authority.
	19061	Pittsfield Housing Authority.
	19023	Springfield Housing Authority.
Michigan	20042	Housing Commission of Detroit.
Nevada	26021	Housing Authority of City of Las Vegas.
New Hampshire.	27021	Housing Authority of City of Manchester.
New Jersey	28044	Housing Authority of City of Camden.
	28021	Housing Authority of City of Long Branch.
	28072	Housing Authority of City of Newark.
	28111	Housing Authority of Town of Phillipsburg.
New York	30031	Buffalo Municipal Housing Authority.
	30032	Buffalo Municipal Housing Authority.
	30042	Elmira Housing Authority.
	30033	Lackawanna Municipal Housing Authority.
	30039	Lackawanna Municipal Housing Authority.
	30034	Niagara Falls Housing Authority.
	30071	Niagara Falls Housing Authority.
	30082	Massena Housing Authority.
North Carolina	31023	Housing Authority of City of Wilmington.
	31024	Housing Authority of City of Wilmington.
Ohio	33031	Canton Metropolitan Housing Authority.
	33033	Canton Metropolitan Housing Authority.
	33021	Cincinnati Metropolitan Housing Authority.
	33071	Cleveland Metropolitan Housing Authority.
	33074	Cleveland Metropolitan Housing Authority.
	33075	Cleveland Metropolitan Housing Authority.
	33112	Lorain Metropolitan Housing Authority.
	33261	Lorain Metropolitan Housing Authority.
	33262	Lorain Metropolitan Housing Authority.
	33041	Warren Metropolitan Housing Authority.
	33043	Warren Metropolitan Housing Authority.
Oregon	35021	Housing Authority of Portland.
Pennsylvania	36051	Housing Authority of County of Beaver.
	36058	Housing Authority of County of Beaver.
	36041	Housing Authority of Bethlehem.
	36042	Housing Authority of Bethlehem.
	36044	Housing Authority of Bethlehem.
	36151	Allegheny County Housing Authority.
	36152	Allegheny County Housing Authority.
	36061	Housing Authority of County of Lawrence.
	36021	Housing Authority of City of Erie.
	36031	Housing Authority of County of Lycoming.
	36011	Housing Authority of Philadelphia.
	36012	Housing Authority of Philadelphia.
	36014	Housing Authority of Philadelphia.
	36015	Housing Authority of Philadelphia.
	36016	Housing Authority of Philadelphia.
	36101	Housing Authority of City of Pittsburgh.
	36212	Allegheny County Housing Authority.
	36295	Housing Authority of City of York.
Rhode Island	37013	Housing Authority of City of Newport.
South Carolina	38023	Housing Authority of City of Charleston.
	38061	Housing Authority of City of Charleston.
	38041	Housing Authority of City of Spartanburg.
	38042	Housing Authority of City of Spartanburg.
Tennessee	40022	Jackson Housing Authority.
	40023	Milan Housing Authority.
	40011	Nashville Housing Authority.
	40025	Trenton Housing Authority.
Texas	41064	Housing Authority of City of Corpus Christi.
	41065	Housing Authority of City of Corpus Christi
	41133	Housing Authority of City of Freeport.
	41031	Housing Authority of City of Houston.
	41131	Housing Authority of City of Lake Jackson.
	41101	Housing Authority of City of Mineral Wells.
	41103	Housing Authority of City of Mineral Wells.
	41072	Housing Authority of City of Orange.
	41032	Housing Authority of City of Pasadena.
	41141	Housing Authority of City of Texarkana.
	41121	Housing Authority of City of Wichita Falls.
Virginia	44131	Alexandria Redevelopment and Housing Authority.
	44132	Alexandria Redevelopment and Housing Authority.
	44133	Alexandria Redevelopment and Housing Authority.
Virginia	44135	Alexandria Redevelopment and Housing Authority.
	44136	Alexandria Redevelopment and Housing Authority.
	44065	Newport News Redevelopment and Housing Authority.
	44074	Norfolk Redevelopment and Housing Authority.
	44086	Portsmouth Redevelopment and Housing Authority.
Washington	45043	Housing Authority of City of Bremerton.
	45277N	Housing Authority of County of Clallam.
	45315N	Housing Authority of County of Clallam.
	45133	Housing Authority of County of King.
	45052	Housing Authority of City of Seattle.
	45053	Housing Authority of City of Seattle
	45054	Housing Authority of City of Seattle.
	45055	Housing Authority of City of Seattle.
	45056	Housing Authority of City of Seattle.
	45122	Housing Authority of City of Vancouver.

In addition to the authority of the Administrator under the first sentence of this subsection, the Administrator is specifically authorized to convey any permanent war housing project to a local public housing agency if requested in writing, within sixty days after April 20, 1950, by such agency or the executive head of the municipality (or of the county or parish if such project is not in a municipality) within which the project is located, or by the Governor of the State where an agency of the State has authority to operate the project: *Provided,* That any conveyance by the Administrator pursuant to this sentence shall be subject to the same conditions and requirements as provided in this section with respect to a project specifically designated herein.

(b) Projects as "low-rent housing".

Upon the conveyance by the Administrator of any such project pursuant to the provisions of this section, such project shall constitute and be deemed to be "low-rent housing" as that term is used and defined in the United States Housing Act of 1937 (and to be a low-rent housing project assisted pursuant to that Act, within the meaning of section 1404a (b) of this title), except that no capital grant or annual contribution shall be made by the Federal Government with respect to such project. If any such project is consolidated under a single annual contributions contract with any low-rent project being assisted with annual contributions under the said Act, the payment of any annual contribution on account of any project so assisted shall not be deemed to be a capital grant or annual contribution with respect to any project conveyed hereunder. Any instrument of conveyance by the Administrator stating that it is executed under subchapters II—VII of this chapter shall be conclusive evidence of compliance therewith insofar as any title or other interest in the property is concerned.

(c) Conditions and requirements of agreements.

The agreement between the public housing agency and the Administration required by subsection (a) of this section shall contain the following conditions and requirements, and may contain such further conditions, requirements, and provisions as the Administration determines—

(1) during a period of forty years following the conveyance the project shall be administered as low-rent housing in accordance with subsections (1) and (2) of section 1402 of this title: *Provided,* That if at any time during such period the public housing agency and the Administration agree that the project, or any part thereof, is no longer suit-

able for use as low-rent housing, the project, or part thereof, shall with the approval of the Administration be sold by the public housing agency after which the agreement shall be deemed to have terminated with respect to such project or part thereof except that the proceeds from such sale, after payment of the reasonable expense thereof, shall be paid to the Administration;

(2) the public housing agency shall, within six months following the conveyance, initiate a program for the removal of all families residing in the project on the date of conveyance who are ineligible under the provisions of the United States Housing Act of 1937 for continued occupancy therein, and shall have required such ineligible tenants to vacate their dwellings within eighteen months after the initiation of such program: *Provided,* That military personnel as designated by the Secretary of Defense or his designee shall not be subject to such removal until eighteen months after the date of conveyance;

(3) annually during the term of such agreement, the public housing agency shall pay to the Administration all income from the project remaining after deducting the amounts necessary (as determined pursuant to regulations of the Administration) for (i) the payment of reasonable and proper costs of operating, maintaining, and approving such project, (ii) the payments in lieu of taxes authorized hereunder, (iii) the establishment and maintenance of reasonable and proper reserves as approved by the Administration, and (iv) the payment of currently maturing installments of principal of and interest on any indebtedness incurred by such public housing agency with the approval of the Administration: *Provided,* That the provisions of this paragraph shall not be applicable to any project which is consolidated under a single contract with one or more low-rent projects being assisted under the United States Housing Act of 1937, and all income from any such project conveyed under this section may be commingled with funds of the project or projects with which it is consolidated and applied in accordance with the requirements of the consolidated contract and the provisions of section 1410(c) of this title;

(4) during the term of such agreement, the project shall be exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions;

(5) for the tax year in which the conveyance is made and the next succeeding tax year annual payments in lieu of taxes may be made to the State, city, county, or other political subdivisions in amounts not in excess of the real property taxes which would be paid to such State, city, county, or other political subdivisions if the project were not exempt from taxation; and thereafter, during the term of such agreement, payments in lieu of taxes with respect to the project may be made in annual amounts which do not exceed 10 per centum of the annual shelter rents charged in such project;

(6) in selecting tenants for such project, the public housing agency shall give such preferences as are prescribed by section 1410 (g) of this title, except that for one year after the date of conveyance of a project, the public housing agency shall, to the extent permitted by law, give such preferences, by allocation or otherwise, to military personnel as the Secretary of Defense or his designee prescribes to the public housing agency; and

(7) upon the occurrence of a substantial default in respect to the requirements and conditions to which the public housing agency is subject (as such substantial default shall be defined in such agreement), the public housing agency shall be obligated at the option of the Administration, either to convey title in any case where, in the determination of the Administration (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this subchapter and the United States Housing Act of 1937, or to deliver possession to the Administration of the project, as then constituted, to which such agreement relates: *Provided,* That in the event of such conveyance of title or delivery of possession, the Administration may improve and administer such project as low-rent housing, and otherwise deal with such housing or parts thereof, subject, however, to the limitations contained in the applicable provisions of the United States Housing Act of 1937. The Administration shall be obligated to reconvey or to redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such agreement and as soon as practicable after the Administration shall be satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this subchapter and the United States Housing Act of 1937, thereafter be operated in accordance with the terms of such agreement. Any prior conveyances and reconveyances, deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Administration pursuant to this paragraph upon the subsequent occurrence of a substantial default.

(d) Disposition of payments.

At the end of each fiscal year, the total amount of payments during such year to the Administration in accordance with subsection (c) of this section shall be covered into the Treasury as miscellaneous receipts. (Oct. 14, 1940, ch. 862, title VI, § 606, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended by Ex. Ord. No. 10284, Sept. 4, 1951, §§ 6, 7, 16 F. R. 8971; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F. R. 3012; Ex. Ord. No. 10425, eff. Jan. 16, 1953, 18 F. R. 405; Sept. 23, 1959, Pub. L. 86–372, title VIII, § 807, 73 Stat. 687.)

REFERENCES IN TEXT

The United States Housing Act of 1937 referred to in subsections (a)(1), (b), and (c) (2), (3), (7), of this section is classified to chapter 8 of this title.

"That Act" wherever appearing refers to the United States Housing Act of 1937.

Subchapter II—VII of this chapter, referred to in subsec. (b), in the original reads "this Act", meaning act of Oct. 14, 1940, which is set out in such subchapters.

AMENDMENTS

1959—Subsec. (b). Pub. L. 86-372, § 807(1), provided that if any such project is consolidated under a single annual contributions contract with any low-rent project being assisted with annual contributions under the United States Housing Act of 1937, the payment of any annual contribution on account of any project so assisted shall not be deemed to be a capital grant or annual contribution with respect to any project conveyed hereunder.

Subsec. (c)(3). Pub. L. 86-372, § 807(2), inserted proviso making the provisions of subsec. (c)(3) inapplicable to any project which is consolidated under a single contract with one or more low-rent projects being assisted under the United States Housing Act of 1937, and permitting the commingling of income from such project with funds of the project or projects with which it is consolidated.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

The Public Housing Administration lapsed following the 1965 transfer of the functions, powers, and duties thereof to the Secretary of Housing and Urban development pursuant to section 5 of Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 669, set out as section 3534 of this title. Subsequent thereto such functions were exercised by the Secretary through the United States Housing Authority. See section 3531 note of this title.

EX. ORD. NO. 10284. EXTENSION OF TIME

Subsec. (a) (1) was affected by Ex. Ord. 10284, Sept. 4, 1951, to extend time for request for conveyance of housing projects from Dec. 31, 1950, to Dec. 31, 1951.

EX. ORD. NO. 10339. EXTENSION OF TIME

Subsec. (a) (1) was affected by Ex. Ord. 10339, Apr. 7, 1952, to extend time for request for conveyance of housing projects from Dec. 31, 1951, to Dec. 31, 1952.

Subsec. (a) (3) was affected by Ex. Ord. 10339, Apr. 7, 1952 to extend time for entering agreements with the Public Housing Administration from June 30, 1952 to June 30, 1953. Said Ex. Ord. is set out as a note under section 1589a of this title.

EX. ORD. NO. 10425. EXTENSION OF TIME

Subsec. (a) (1) was affected by Ex. Ord. No. 10425, Jan. 16, 1953, to extend time for request for conveyance of housing projects from Dec. 31, 1952, to June 30, 1953.

Subsec. (a) (3) was affected by Ex. Ord. 10284 to extend time for entering agreements with the Public Housing Administration from June 30, 1951, to June 30, 1952. Said Ex. Ord. is set out as a note under section 1589a of this title.

CROSS REFERENCES

Extension of dates for disposal and other actions relating to housing under this chapter, see section 1589a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1585, 1587 of this title.

§ 1587. Disposition of other permanent war housing.

(a) Public interest.

The Administrator shall, subject to the provisions of this section, dispose of permanent war housing, other than housing conveyed pursuant to section 1586 of this title, as promptly as practicable and in the public interest.

(b) Preference in sales to individuals.

Preference in the purchase of any dwelling structure designed for occupancy by not more than four families and offered for separate sale shall be granted to occupants and to veterans over other prospective purchasers for such period as the Administrator may determine and in the following order:

(1) a veteran who occupies a unit in the dwelling structure to be sold and who intends to continue to occupy such unit;

(2) a nonveteran who occupies a unit in the dwelling structure to be sold and who intends to continue to occupy such unit;

(3) a veteran who intends to occupy a unit in the dwelling structure to be sold.

Subject to the above order of preference, the Administrator may establish subordinate preferences for any such dwelling structure. In the disposition of any dwellings under this section which were acquired by the United States from persons occupying the dwellings at the time of such acquisition, the Administrator may, notwithstanding the order of preference provided in this section, grant a first preference to such persons in the purchase of any of these dwellings for such period and under such conditions as he may determine to be appropriate and in the public interest. As used in this subsection, the term "veteran" shall include a veteran, a serviceman, or the family of a veteran or a serviceman, or the family of a deceased veteran or serviceman whose death has been determined by the Veterans' Administration to be service-connected.

(c) Preference in sales of projects.

In the case of any housing project required by this section to be disposed of, which is not offered for separate sale of separate dwelling structures designed for occupancy by not more than four families, such project may be sold as a whole or in such portions as the Administrator may determine. On such sales of an entire project or portions thereof consisting of more than one dwelling structure or of an individual dwelling structure designed for occupancy by more than four families, first preference shall be given for such period not less than ninety days nor more than six months from the date of the initial offering of such project or portions thereof as the Administrator may determine, to groups of veterans organized on a mutual ownership or cooperative basis (provided that any such group shall accept as a member of its organization, on the same terms, subject to the same conditions, and with the same privileges and responsibilities, required of, and extended to other members of the group any tenant occupying a dwelling unit in such project, portion thereof or building, at any time during such period as the Administrator shall deem appropriate, starting on the date of the announcement by the Admin-

istrator of the availability of such project, portion thereof or building for sale), except that a first preference for said period of not less than ninety days nor more than six months shall be given to any group organized on a mutual or cooperative basis, which, with respect to its proposed purchase of a specific housing project or portions thereof, has, prior to August 1, 1949, been granted an exception by the Administrator from the sales preference provisions of Public Regulation 1 of the Housing and Home Finance Agency and has been designated as a preferred purchaser.

(d) Equitable selection method for each preference class.

The Administrator shall provide an equitable method of selecting the purchasers to apply when preferred purchasers (or groups of preferred purchasers) in the same preference class or containing members in the same preference class compete with each other.

(e) Veterans' preference.

Any housing disposed of in accordance with this section shall after such disposal be deemed to be housing accommodations the construction of which was completed after June 30, 1947, within the meaning of section 1884 of Appendix to Title 50, relating to preference or priority to veterans of World War II or their families.

(f) Terms of sales.

Sales pursuant to this section shall be upon such terms as the Administrator shall determine: *Provided,* That full payment to the Government for the property sold shall be required within a period not exceeding twenty-five years with interest on unpaid balances at not less than 4 per centum per annum, except that in the case of projects initially programmed as mutual housing communities under the defense housing program, the terms of sale shall not require a down payment and shall provide for full payment to the United States over a period of forty-five years with interest on unpaid balances at not more than 3 per centum per annum.

(g) Disregard of preferences in certain cases.

The Administrator may dispose of any permanent war housing without regard to the preferences in subsections (b) and (c) of this section when he determines that (1) such housing, because of design or lack of amenities, is unsuitable for family dwelling use, or (2) it is being used at the time of disposition for other than dwelling purposes, or (3) it was offered, with preferences substantially similar to those provided in the Housing Act of 1950, to veterans and occupants prior to April 20, 1950. (Oct. 14, 1940, ch. 862, title VI, § 607, as added June 28, 1948, ch, 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Mar. 10, 1954, ch. 61, 68 Stat. 26; Aug. 2, 1954, ch. 649, title VIII, § 805 (2), 68 Stat. 644.)

REFERENCES IN TEXT

The Housing Act of 1950, referred to in subsec. (g), is act Apr. 20, 1950, ch. 94, 64 Stat. 48. For distribution of that act in this Code, see Tables.

AMENDMENTS

1954—Subsec. (b). Act Mar. 10, 1954, in last paragraph, inserted the sentence permitting the Administrator to give, in the disposition of dwellings under this section which were acquired by the United States from persons occupying the dwellings at the time of such acquisition, a first preference to such persons in the purchase thereof.

Subsec. (g). Act Aug. 2, 1954, added subsec. (g).

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

CROSS REFERENCES

Extension of dates for disposal and other actions relating to housing under this chapter, see section 1589a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1589d of this title.

§ 1588. Sale of vacant land to local housing authorities; sale of personal property.

(a) Notwithstanding any other provision of law, any land acquired under subchapters II—VII of this chapter or any other Act in connection with war or veterans' housing, but upon which no dwellings are located at the time of sale, may be sold at fair value, as determined by the Administrator, to any agency organized for slum clearance or to provide subsidized housing for persons of low income.

(b) Notwithstanding any other provision of law, any personal property held under subchapters II—VII of this chapter, and not sold with a project or building, may be sold at fair value, as determined by the Administrator, to any agency organized for slum clearance or to provide subsidized housing for persons of low income. Any sale of personal property under this subsection shall be made on a cash basis, payable at the time of settlement. (Oct. 14, 1940, ch. 862, title VI, § 608, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59, and amended Aug. 11, 1955, ch. 787, 69 Stat. 668.)

REFERENCES IN TEXT

Subchapters II—VII of this chapter, referred to in subsecs. (a) and (b), in the original reads "this Act", meaning act Oct. 14, 1940, which is set out in such subchapters.

AMENDMENTS

1955—Act Aug. 11, 1955, designated existing provisions thereof as subsec. (a), and added subsec. (b).

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established

by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

§ 1589. Conveyance of land and nondwelling structures thereon to States for National Guard purposes.

Notwithstanding any other provision of law, the Administrator is authorized to convey by quit claim deed, without consideration, to any State for National Guard purposes any land, together with any nondwelling structures thereon, held under subchapters II—VII of this chapter or any other Act in connection with war or veterans' housing: *Provided,* That the United States shall be saved harmless from or reimbursed for such costs incidental to the conveyance as the Administrator may deem proper: *Provided further,* That the conveyance of such land shall contain the express condition that if the grantee shall fail or cease to use such land for such purposes, or shall alienate (or attempt to alienate) such land, title thereto shall, at the option of the United States, revert to the United States. (Oct. 14, 1940, ch. 862, title VI, § 609, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59.)

REFERENCES IN TEXT

Subchapters II—VII of this chapter, referred to in the text, in the original reads "this Act", meaning act Oct. 14, 1940, which is set out in such subchapters.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

§ 1589a. Extension by President of dates for disposal and other actions relating to housing under this subchapter.

Notwithstanding any other provision of law, the President is authorized to extend, for such period or periods as he shall specify, the time within which any action is required or permitted to be taken by the Administrator or others under the provisions of this subchapter or section 1553 of this title (or any contract entered into pursuant thereto), upon a determination by him, after considering the needs of national defense and the effect of such extension upon the general housing situation and the national economy, that such extension is in the public interest. (Oct. 14, 1940, ch. 862, title VI, § 611, as added Sept. 1, 1951, ch. 378, title VI, § 603 (d), 65 Stat. 314, and amended July 14, 1952, ch. 723, § 6, 66 Stat. 603.)

AMENDMENTS

1952—Act July 14, 1952, inserted "or section 1553 of this title" immediately preceding the parenthetical clause, and substituted "thereto" for "of this subchapter" in the parenthetical clause.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

EX. ORD. NO. 10462. DELEGATION OF FUNCTIONS TO THE HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 10462, June 22, 1953, 18 F. R. 3613, provided:

1. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action by the President, the functions vested in the President by section 611 of the act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended (42 U.S.C. 1589a).

2. The meaning of the terms "perform" and "functions" as used in this order shall be the same as the meaning of those terms as used in chapter 4 of title 3 of the United States Code.

EX. ORD. NO. 10425. EXTENSIONS OF TIME

Ex. Ord. No. 10425, Jan. 16, 1953, 18 F. R. 405, provided:

1. The time stipulated in subsection (c) of section 601 of the act [section 1581 (c) of this title] on or before which requests must be filed under subsections (a), (b), (g), and (h) of that section is extended to June 30, 1953.

2. The time stipulated in section 606 (a) (1) of the act on or before which conveyance of the housing projects listed in section 606 (a) (3) of the act [section 1586 (2) (1) of this title] must be requested by the governing body of the municipality or county and on or before which the need for low-rent housing must be demonstrated to the satisfaction of the Administrator is extended to June 30, 1953.

This order supersedes paragraphs 1 and 6 of Executive Order No. 10339 of April 5, 1952 [set out as a note under this section], and paragraph 1 of Executive Order No. 10395 of September 18, 1952 [set out as a note under this section].

EX. ORD. NO. 10395. EXTENSION OF TIME

Ex. Ord. No. 10395, Sept. 19, 1952, 17 F. R. 8449, provided:

1. The time stipulated in subsection (c) of section 601 of the Act [section 1581 (c) of this title] on or before which requests must be filed under subsection (h) of that section is extended to December 31, 1952.

2. The time stipulated in subsection (c) of section 601 of the Act [section 1581 (c) of this title] on or before which all conditions to relinquishments or transfers pursuant to requests made under subsection (h) of that section must be complied with is extended to June 30, 1953.

EX. ORD. NO. 10385. EXTENSION OF TIME RELATING TO THE REMOVAL OF CERTAIN TEMPORARY HOUSING

Ex. Ord. No. 10385, Aug. 18, 1952, 17 F. R. 7525, provided:

The time stipulated in section 313 of the said act approved October 14, 1940, as amended [section 1553 of this title], within which, subject to the qualifications stated in the said section 313 [section 1553 of this title], housing of a temporary character under the jurisdiction of the Housing and Home Finance Administrator and constructed under certain laws must be removed is hereby extended from December 31, 1952, to July 1, 1954.

EX. ORD. NO. 10339. EXTENSIONS OF TIME

Ex. Ord. No. 10339, Apr. 7, 1952, 17 F. R. 3012, provided:

1. The time stipulated in subsection (c) of section 601 of the Act [section 1581 (c) of this title] on or before which requests must be filed under subsections (a), (b) and (g) of that section is extended to December 31, 1952.

2. The time stipulated in subsection (c) of section 601 of the Act [section 1581 (c) of this title] on or before which all conditions to relinquishments or transfers pursuant to requests made under subsections (a), (b) and (g) of that section must be complied with is extended to June 30, 1953.

3. The time stipulated in section 604 of the Act [section 1584 of this title] after which vacancies occurring or continuing in temporary housing remaining under the jurisdiction of the Housing and Home Finance Administrator on land under his control may be filled only by transfer of tenants of other accommodations in the same locality being removed as required by the Act is extended to July 1, 1953.

4. The time stipulated in section 604 of the Act [section 1584 of this title] on or before which all tenants must be notified to vacate the premises is extended to March 31, 1954; and the time required to be stipulated in such notices prior to which the premises must be vacated is extended to July 1, 1954.

5. The time stipulated in section 604 of the Act [section 1584 of this title] promptly after which actions must be instituted to evict any tenants still remaining is extended to July 1, 1954.

6. The time stipulated in section 606 (a) (1) of the Act [section 1586 (a) (1) of this title] on or before which conveyance of the housing projects listed in section 606 (a) (3) of the Act [section 1586 (a) (3) of this title] must be requested by the governing body of the municipality or county and on or before which the need for low-rent housing must be demonstrated to the satisfaction of the Administrator is extended to December 31, 1952.

7. The time stipulated in section 606 (a) (3) of the Act [section 1586 (a) (3) of this title] on or before which the governing body of the municipality or county must enter into an agreement with the public housing agency satisfactory to the Public Housing Administration providing for local cooperation and payments in lieu of taxes and on or before which the public housing agency must enter into an agreement with the Public Housing Administration for the administration of any project requested under section 606 (a) of the Act [section 1586 (a) of this title] is extended to June 30, 1953.

This order supersedes Executive Order 10284, dated September 1, 1951.

EXECUTIVE ORDER No. 10284

Ex. Ord. No. 10284, Sept. 4, 1951, 16 F. R. 8971, was superseded by Ex. Ord. No. 10339, Apr. 7, 1952, 17 F. R. 3012.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1589d of this title.

§ 1589b. Establishment of income limitations for occupancy of housing; effect on prior tenants.

The Administrator, notwithstanding any other provisions of subchapters II—VII of this chapter or any other law except provisions hereafter enacted expressly in amendment hereof, is authorized to establish income limitations for occupancy of any housing held by him under subchapters II—VII of this chapter and, giving consideration to the ability of such tenants to obtain other housing accommodations, to require tenants, admitted to occupancy prior to the establishment of such income limitations and who have incomes in excess of limitations established by him, to vacate such housing. (Oct. 14, 1940, ch. 862, title VI, § 612, as added Sept. 1, 1951, ch. 378, title VI, § 603 (d), 65 Stat. 314.)

REFERENCES IN TEXT

Subchapters II—VII of this chapter, referred to in the text, in the original reads "this Act", meaning act Oct. 14, 1940, which is set out in such subchapters.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

§ 1589c. Transfer of certain housing to Indians.

Upon a certification by the Secretary of the Interior that any surplus housing, classified by the Administrator as demountable, in the area of San Diego, California, is needed to provide dwelling accommodations for members of a tribe of Indians in Riverside County or San Diego County or Imperial County, California, the Administrator is authorized, notwithstanding any other provision of law, to transfer and convey such housing without consideration to such tribe, the members thereof, or the Secretary of the Interior in trust therefor, as the Secretary may prescribe: *Provided,* That the term housing as used in this section shall not include land. (Oct. 14, 1940, ch. 862, title VI, § 613, as added Aug. 2, 1954, ch. 649, title VIII, § 805 (3), 68 Stat. 645.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

§ 1589d. Undisposed housing.

(a) Disposal to highest bidder; rejection of bids; disposal by negotiation.

Notwithstanding the provisions of this or any other law, (1) any housing to be sold on-site determined by the Administrator to be permanent, located on lands owned by the United States and under the jurisdiction of the Administrator, which is not relinquished, transferred, under contract of sale, sold, or otherwise disposed of by the Administrator under other provisions of this subchapter or under the provisions of other law by January 1, 1957, except housing which is determined by the Administrator by that date to be suitable for sale in accordance with section 1587 (b) of this title; and (2) any permanent housing to be sold off-site which is not relinquished, transferred, under contract of sale, sold, or otherwise disposed of prior to August 7, 1956,

shall be disposed of, as expeditiously as possible, on a competitive basis to the highest responsible bidder upon such terms and after such public advertisement as the Administrator may deem in the public interest; except that the Administrator may reject any bid which he deems less than the fair market value of the property and may thereafter dispose of the property by negotiation.

(b) Contracts; time for passage of title; termination of purchaser's rights.

Notwithstanding the provisions of this or any other law, all contracts entered into after August 7, 1956 for the sale, transfer, or other disposal of housing (other than housing subject to the provisions of section 1587 (b) of this title) determined by the Administrator to be permanent, except contracts entered into pursuant to subsection (a) of this section, shall require that if title does not pass to the purchaser by April 1, 1957 (or within sixty days thereafter if such time is necessary to cure defects in title in accordance with the provisions of the contract), the rights of the purchaser shall terminate and thereafter the housing shall be sold under the provisions of subsection (a) of this section. For the purposes of this subsection, title shall be considered to have passed upon the execution of a conditional sales contract.

(c) Dates.

The dates set forth in subsections (a) and (b) of this section shall not be subject to change by virtue of the provisions of section 1589a of this title. (Oct. 14, 1940, ch. 862, title VI, § 614, as added Aug. 7, 1956, ch. 1029, title IV, § 407 (a), 70 Stat. 1106.)

CODIFICATION

Subsecs. (b)—(e) of section 407 of act Aug. 7, 1956, were not classified to this Code.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

§ 1590. Definitions.

As used in this subchapter, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates otherwise:

(a) The term "governing body of the municipality or county" means the governing body of the city, village, or other municipality having general governmental authority over the area in which the housing involved is located or, if the housing is not located in such a municipality, the term means the governing body of the county or parish in which the housing is located, or if the housing is located in the District of Columbia the term means the District of Columbia Council.

(b) The term "housing" means any housing under the jurisdiction of the Administrator (including trailers and other mobile or portable housing) constructed, acquired, or made available under subchapters II—VII of this chapter or Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Laws 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, or any other law, and includes in addition to dwellings any structures, appurtenances, and other property, real or personal, acquired for or held in connection therewith.

(c) The term "temporary housing" means any housing (as defined in (b)) which the Administrator has determined to be "of a temporary character" pursuant to subchapters II—VII of this chapter and shall also include any such housing after rights thereto have been relinquished or transferred under this subchapter or section 1575 of this title.

(d) The terms "veteran" and "serviceman" mean "veteran" and "serviceman" as those terms are defined in the United States Housing Act of 1937.

(e) The term "State" means any State, Territory, dependency, or possession of the United States, or the District of Columbia.

(f) The term "going Federal rate of interest" means "going Federal rate" as that term is defined in the United States Housing Act of 1937.

(g) The term "United States Housing Act of 1937" means the provisions of that Act, including all amendments thereto, now or hereafter adopted, except provisions relating to the initial construction of a project or dwelling units. (Oct. 14, 1940, ch. 862, title VI, § 610, as added June 28, 1948, ch. 688, § 7, as added Apr. 20, 1950, ch. 94, title II, § 201, 64 Stat. 59; 1967 Reorg. Plan No. 3, § 402, (432), eff. Aug. 11, 1967, 32 F.R. 11669, 81 Stat. 948.)

REFERENCES IN TEXT

Public Law 781, Seventy-sixth Congress, approved September 9, 1940, referred to in subsection (b) is act Sept. 9, 1940, ch. 717, 54 Stat. 872, Section 201 of act Sept. 9, 1940 contains the provisions relating to the term Housing and is not classified to the Code.

Public Laws 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, referred to in subsection (b), acts Mar. 1, 1941, ch. 9, 55 Stat. 14; May 24, 1941, ch. 132, 55 Stat. 197; Dec. 17, 1941, ch. 591, 55 Stat. 810, respectively, are appropriation acts and are set out as notes under section 1523 of this title.

Subchapters II—VII of this chapter, referred to in subsecs. (b) and (c), in the original reads "this Act", meaning act Oct. 14, 1940, which is set out in such subchapters.

The United States Housing Act of 1937, referred to in subsections (d), (f), (g), is classified to chapter 8 of this title.

TRANSFER OF FUNCTIONS

Reference in subsec. (a) to the Board of Commissioners of the District of Columbia has been changed to the District of Columbia Council pursuant to section 402(432) of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, set out in the Appendix to Title 5, Government Organization and Employees, which transferred the regulatory and other functions of the Board of Commissioners relating to the functions under this subchapter previously vested in the Board of Commissioners pursuant to this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of the Reorg. Plan No. 3 of 1967.

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers

and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SUBCHAPTER VIII.—CRITICAL DEFENSE HOUSING AREAS

§ 1591. Determination of critical areas by President; requisite conditions.

(a) Notwithstanding any other provisions of this Act, the authority contained in titles II or III of this Act shall not be exercised in any area unless the President shall have determined that such area is a critical defense housing area.

(b) No area shall be determined to be a critical defense housing area pursuant to this section unless the President finds that in such area all the following conditions exist:

(1) a new defense plant or installation has been or is to be provided, or an existing defense plant or installation has been or is to be reactivated or its operation substantially expanded;

(2) substantial in-migration of defense workers or military personnel is required to carry out activities at such plant or installation; and

(3) a substantial shortage of housing required for such defense workers or military personnel exists or impends which impedes or threatens to impede activities at such defense plant or installation, or that community facilities or services required for such defense workers or military personnel are not available or are insufficient, or both, as the case may be.

(Sept. 1, 1951, ch. 378, title I, § 101, 65 Stat. 293; June 30, 1953, ch. 170, § 15, 67 Stat. 125.)

REFERENCES IN TEXT

"This Act" referred to in the text, refers to Defense Housing and Community Facilities and Services Act of 1951, act Sept 1, 1951. Such act is classified to the Code as follows: Title I, to this subchapter; title II, to subchapter X of chapter 13 of Title 12, Banks and Banking, and to sections 371, 1430, 1702, 1715c, 1715f, and 1716 of title 12; title III, to subchapter IX of this chapter; title IV, to subchapter X of this chapter; title V, to sections 371 and 1701g to 1701g–3, of title 12; and title VI, to sections 1701i–1, 1710, 1713, 1715d, 1715g, 1715h, 1716, 1747a, 1747f, 1747*l*, and 1748b of title 12, and to sections 1507, 1584, 1585, 1589a, 1589b, 1591 note, 1591d, and 1593e of this title.

AMENDMENTS

1953—Subsec. (a). Act June 30, 1953, substituted "titles II or III" for "titles II, III, or IV".

SHORT TITLE

Section 1 of act Sept. 1, 1951, provided that "this Act" may be popularly known as the "Defense Housing and Community Facilities and Services Act of 1951". For distribution of "this Act", see References in Text note under this section.

INCONSISTENT LAWS

Section 617 of act Sept. 1, 1951, provides: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [see References in Text note, above, for distribution of 'this Act'], the provisions of this Act shall be controlling".

SEPARABILITY OF PROVISIONS, AND SAVINGS CLAUSE

Act Sept. 1, 1951, § 618, second sentence, provides: "Notwithstanding any other evidence of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act [for distribution of 'this Act', see References in Text note above], or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1591a, 1591b, 1597, 1750b of this title.

§ 1591a. Construction by private enterprise.

In order to assure that private enterprise shall be afforded full opportunity to provide the defense housing needed wherever possible, in any area which the President, pursuant to the authority contained in section 1591 of this title, has declared to be a critical defense housing area—

(a) Publication of number of units needed.

first, the number of permanent dwelling units (including information as to types, rentals, and general locations) needed for defense workers and military personnel in such critical defense housing area shall be publicly announced and printed in the Federal Register by the Housing and Home Finance Administrator;

(b) Suspension of credit restrictions.

second, residential credit restrictions under the Defense Production Act of 1950, as amended, (1) as to housing to be sold at $12,000 or less per unit or to be rented at $85 or less per unit per month, shall be suspended with respect to the number and types of housing units at the sales prices or rentals which the President determines to be needed in such area for defense workers or military personnel, and (2) as to all other housing, shall be relaxed in such manner and to such extent as the President determines to be necessary and appropriate to obtain the production of such housing needed in such area for defense workers or military personnel;

(c) Mortgage insurance.

third, the mortgage insurance aids provided under sections 371, 1430, 1702, 1715c, 1715f and 1716, and subchapter X of chapter 13 of Title 12 shall be made available to obtain the production of housing needed in such area for defense workers or military personnel; and

(d) Construction by Government as conditional.

fourth, no permanent housing shall be constructed by the Federal Government under the provisions of subchapter IX of this chapter except to the extent that private builders or eligible mortgagees have not, within a period of not less than ninety days (as the Housing and Home Finance Administrator shall specify) following public announcement of the availability of such mortgage insurance aids under sections 371, 1430, 1702, 1715c 1715f and 1716,

and subchapter X of chapter 13 of Title 12, indicated through bona fide applications (which meet the requirements as to types, rentals or sales prices, and general locations) for exceptions from such residential credit restrictions or for mortgage insurance or guaranty that they will provide the housing determined to be needed in such area for defense workers and military personnel and publicly announced as provided by subsection (a) of this section. (Sept. 1, 1951, ch. 378, title I, § 102, 65 Stat. 294.)

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in the text of par. (b), is classified to sections 2061—2166 of Title 50, Appendix, War and National Defense.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, § 5, Sept. 9 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1592, 1592a of this title.

§ 1591b. Community facilities or services by local agencies.

In order to assure that community facilities or services required in connection with national defense activities shall, wherever possible, be provided by the appropriate local agencies with local funds, in any area which the President, pursuant to the authority contained in section 1591 of this title, has declared to be a critical defense housing area—

(a) no loan shall be made pursuant to subchapter IX of this chapter for the provision of community facilities or equipment therefor required in connection with national defense activities in such area unless the chief executive officer of the appropriate political subdivision certifies, and the Housing and Home Finance Administrator finds, that such facilities or equipment could not otherwise be provided when needed;

(b) no grant or other payment shall be made pursuant to subchapter IX of this chapter for the provision, or for the operation and maintenance, of community facilities or equipment therefor, or for the provision of community services, required in connection with national defense activities in such area unless the chief executive officer of the appropriate political subdivision certifies, and the Housing and Home Finance Administrator finds, that such community facilities or services cannot otherwise be provided when needed, or operated and maintained, as the case may be, without the imposition of an increased excessive tax burden or an unusual or excessive increase in the debt limit of the appropriate local agency; and

(c) no community facilities or services shall be provided, and no community facilities shall be maintained and operated, by the United States directly except where the appropriate local agency is demonstrably unable to provide such facilities and services, or to maintain or operate such community facilities and services adequately with its own personnel, with loans, grants, or payments authorized to be made pursuant to subchapter IX of this chapter.

For the purposes of this section, the term "chief executive officer of the appropriate political subdivision" shall mean appropriate principal executive officer or governing body having primary responsibility with respect to the community facility or service involved, but shall not, in any case, mean any public housing authority, or its governing body, or any of its officers, acting in such capacity. (Sept. 1, 1951, ch. 378, title I, § 103, 65 Stat. 294.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1592, 1592m, 1592o of this title.

§ 1591c. Expiration date; exception.

After June 30, 1953, no construction of permanent housing may be begun under subchapter IX of this chapter. After July 31, 1954 (a) no mortgage may be insured under subchapter X of chapter 13 of Title 12 (except (i) pursuant to a commitment to insure issued on or before such date or (ii) after July 31, 1954, and until August 1, 1955, during such period, or for such project or projects, as the President may designate hereunder or (iii) pursuant to a commitment to insure issued pursuant to the preceding clause (ii)), (b) no agreement may be made to extend assistance for the provision of community facilities or services under subchapter IX of this chapter, and no construction of temporary housing or community facilities by the United States may be begun under such subchapter, except after July 31, 1954, and until August 1, 1955, during such period, or for such project or projects, as the President may designate hereunder: *Provided,* That to the extent necessary to assure the adequate completion of any facilities for which prior agreements have been made under subchapter IX of this chapter, the Housing and Home Finance Administrator may, at any time after July 31, 1954, enter into amendatory agreements under such subchapter involving the expenditure of additional Federal funds within the balance available therefor on or before such date, (c) no loan may be made or obligations purchased by the Housing and Home Finance Ad-

ministrator under section 1701g-1 of Title 12 (except pursuant to a commitment issued on or before June 30, 1953, or to refinance an existing loan or existing obligations held under such section by said Administrator on June 30, 1953). (Sept. 1, 1951, ch. 378, title I, § 104, 65 Stat. 295; June 30, 1953, ch. 170, § 16, 67 Stat. 125; June 29, 1954, ch. 410, § 3, 68 Stat. 320; Aug. 2, 1954, ch. 649, title I, § 129, 68 Stat. 609; June 30, 1955, ch. 251, § 2, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 105, 69 Stat. 637.)

AMENDMENTS

1955—Act Aug. 11, 1955, inserted item (iii) in clause (a).

Act June 30, 1955, substituted "August 1, 1955" for "July 1, 1955" in two instances in the second sentences.

1954—Act Aug. 2, 1954, gave President standby authority to use mortgage insurance authority under subchapter X of chapter 13 of title 12 and the provisions in subchapter IX of this chapter for Federal aid in providing defense housing and community facilities and services in critical defense areas, in substitution for provisions under which authority for new projects under these two programs would have expired on June 30, 1954, and authorized the Housing and Home Finance Administrator to enter into amendatory agreements after June 30, 1954, to provide additional Federal assistance with respect to defense community facilities undertaken on or before such date where he finds it necessary to do so to assure the adequate completion of such facilities.

Act June 29, 1954, substituted "July 31, 1954" for "June 30, 1954" at beginning of second sentence.

1953—Act June 30, 1953, inserted the sentence prohibiting the beginning of permanent housing construction under subchapter IX of this chapter, after June 30, 1953; substituted "June 30, 1954" for "June 30, 1953" at beginning of present second sentence and "temporary housing" for "housing" in clause (b) of present second sentence; struck a former clause (c) out of present second sentence, which provided that (after June 30, 1953) no land might be acquired by the Housing and Home Finance Administrator under subchapter X of this chapter; and relettered clause (d) as clause "(c)".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1592 of this title.

§ 1591d. Powers as cumulative and additional.

Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. (Sept. 1, 1951, ch. 378, title VI, § 618, 65 Stat. 317.)

REFERENCES IN TEXT

"This Act," referred to in text, refers to the Defense Housing and Community Facilities and Services Act of 1951, act Sept. 1, 1951. For distribution of "this Act," referred to in the text, see note under section 1591 of this title.

CODIFICATION

Section constitutes the first sentence of section 618 of act Sept. 1, 1951. Remainder of section 618 is set out in note under section 1591 of this title.

SUBCHAPTER IX.—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with community facilities or defense housing under sections 1592—1592o of this title, see section 1701g-5 of Title 12, Banks and Banking.

EXPIRATION DATE

After June 30, 1953, no construction of housing or community facilities by the United States may be begun under this subchapter. See section 1591c of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1591a, 1591b, 1591c of this title and title 12 section 1701g-5.

§ 1592. Authority of Administrator.

Subject to the provisions and limitations of sections 1591 to 1591c of this title, and of this subchapter, the Housing and Home Finance Administrator (hereinafter referred to as the "Administrator") is authorized to provide housing in any areas (subject to the provisions of section 1591 of this title) needed for defense workers or military personnel or to extend assistance for the provision of, or to provide, community facilities or services required in connection with national defense activities in any area which the President, pursuant to the authority contained in said section, has determined to be a critical defense housing area. (Sept. 1, 1951, ch. 378, title III, § 301, 65 Stat. 303.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

§ 1592a. Construction of housing.

(a) Types, sales, preferences in purchases, and payment.

Consistent with other requirements of national defense, any permanent housing constructed pursuant to the authority of this subchapter shall consist of one- to four-family dwelling structures (including row houses) so arranged that they may be offered for separate sale. All housing of permanent construction which is constructed or acquired under the authority of this subchapter shall be sold as expeditiously as possible and in the public interest taking into consideration the continuation of the need for such housing by persons engaged in national defense activities. All dwelling structures of permanent construction designed for occupancy by not more than four families (including row houses)

shall be offered for sale, and preference in the purchase of any such dwelling structure shall be granted to occupants and to veterans over other prospective purchasers. As among veterans, preference in the purchase of any such dwelling structure shall be given to disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected. All dwelling structures of permanent construction in any housing project which are designed for occupancy by more than four families (and other structures in such project which are not sold separately) shall be sold as an entity. On such sales first preference shall be given for such period not less than ninety days nor more than six months from the date of the initial offering of such project as the Administrator may determine, to groups of veterans organized on a mutual ownership or cooperative basis (provided that any such group shall accept as a member of its organization, on the same terms, subject to the same conditions, and with the same privileges and responsibilities, required of, and extended to, other members of the group any tenant occupying a dwelling unit in such project, at any time during such period as the Administrator shall deem appropriate, starting on the date of the announcement by the Administrator of the availability of such project). The Administrator shall provide an equitable method of selecting the purchasers when preferred purchasers (or groups of preferred purchasers) in the same preference class or containing members in the same preference class compete with each other. Sales pursuant to this section shall be for cash or credit, upon such terms as the Administrator shall determine, and at the fair value of the property as determined by him: *Provided,* That full payment to the Government for the property sold shall be required within a period of not exceeding twenty-five years with interest on unpaid balances at not less than 4 per centum per annum.

(b) Temporary housing.

Where it is necessary to provide housing under this subchapter in locations where, in the determination of the Administrator, there appears to be no need for such housing beyond the period during which it is needed for housing persons engaged in national defense activities, the provisions of section 1591a of this title shall not be applicable and temporary housing which is of a mobile or portable character or which is otherwise constructed so as to be available for reuse at other locations or existing housing built or acquired by the United States under authority of other law shall be provided. Any temporary housing constructed or acquired under this subchapter which the Administrator determines to be no longer needed for use under this subchapter shall, unless transferred to the Department of Defense pursuant to section 1592e of this title, or reported as excess to the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Services Act of 1949, as amended, be sold as soon as practicable to the highest responsible bidder after public advertising, except that if one or more of such bidders is a veteran purchasing a dwelling unit for his own occupancy the sale of such unit shall be made to the highest responsible bidder who is a veteran so purchasing: *Provided,* That the Housing and Home Finance Administrator may reject any bid for less than two-thirds of the appraised value as determined by him: *Provided further,* That the housing may be sold at fair value (as determined by the Housing and Home Finance Administrator) to a public body for public use: *And provided further,* That the housing structures shall be sold for removal from the site, except that they may be sold for use on the site if the governing body of the locality has adopted a resolution approving use of such structures on the site.

(c) Preference in admission to occupancy pending ultimate disposition.

When the Administrator determines that any housing provided under this subchapter is no longer required for persons engaged in national defense activities, preference in admission to occupancy thereof shall be given to veterans pending its ultimate sale or disposition in accordance with the provisions of this subchapter. As among veterans, preference in admission to occupancy shall be given to disabled veterans whose disability has been determined by the Veterans' Administration to be service-connected. (Sept. 1, 1951, ch. 378, title III, § 302, 65 Stat. 303; July 14, 1952, ch. 723, § 5, 66 Stat. 602; Aug. 2, 1954, ch. 649, title VIII, § 806, 68 Stat. 645.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

AMENDMENTS

1954—Subsec. (b). Act Aug. 2, 1954, in second sentence, substituted provisions prescribing the disposition procedure, for former provisions that the housing should "be disposed of by the Administrator not later than the date, and subject to the conditions and requirements, hereafter prescribed by the Congress * * *".

1952—Subsec. (b). Act July 14, 1952, inserted "or existing * * * of any other law" following "for reuse at other locations".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592b. Maximum construction costs; determinations by Administrator in certain condemnation proceedings.

The cost per family dwelling unit for any housing project constructed under the authority of this subchapter shall not exceed an average of $9,000 for two-bedroom units in such project, $10,000 for three-bedroom units in such project, and $11,000 for four-bedroom units in such project: *Provided,* That the Administrator may increase any such dollar limitation by not exceeding $1,000 in any geographical area where he finds that cost levels so require: *Provided further,* That in the Territories and possessions of the United States the Administrator may increase any such dollar limitation by 50 per centum: *And provided further,* That for the purposes of this section the cost of any land acquired by the Administrator upon the filing of a declaration of taking in proceedings for the condemnation of fee title shall be considered to be the amount determined by the Administrator, upon the basis of competent appraisal, to be the value thereof. (Sept. 1, 1951, ch. 378, title III, § 303, 65 Stat. 305.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592c. Loans or grants for community facilities or services; conditions; maximum amounts; annual adjustments.

In furtherance of the purposes of this subchapter and subject to the provisions hereof, the Administrator may make loans or grants, or other payments, to public and nonprofit agencies for the provision, or for the operation and maintenance, of community facilities and equipment therefor, or for the provision of community services, upon such terms and in such amounts as the Administrator may consider to be in the public interest: *Provided,* That grants under this subchapter to any local agency for hospital construction may be made only after such action by the local agency to secure assistance under Public Law 725, Seventy-ninth Congress, approved August 13, 1946, as amended, or Public Law 380, Eighty-first Congress, approved October 25, 1949, as is determined to be reasonable under the circumstances, and only to the extent that the required assistance is not available to such local agency under said Public Law 725, or said Public Law 380, as the case may be: *Provided further,* That grants or payments for the provision, or for the maintenance and operation, of community facilities or services under this section shall not exceed the portion of the cost of the provision, or the maintenance and operation, of such facilities or services which the Administrator estimates to be attributable to the national defense activities in the area and not to be recovered by the public or nonprofit agency from other sources, including payments by the United States under any other provisions of this Act or any other law: *And provided further,* That any such continuing grant or payment shall be reexamined and adjusted annually upon the basis of the ability of the agency to bear a greater portion of the cost of such maintenance, operation, or services as a result of increased revenues made possible by such facility or by such defense activities. (Sept. 1, 1951, ch. 378, title III, § 304, 65 Stat. 305.)

REFERENCES IN TEXT

Public Law 725, Seventy-ninth Congress, approved Aug. 13, 1946, as amended, referred to in the text, is act Aug. 13, 1946, ch. 958, 60 Stat. 1040. For distribution in this Code see Tables.

Public Law 380, Eighty-first Congress, approved Oct. 25, 1949, referred to in the text, is act Oct. 25, 1949, ch. 722, 63 Stat. 898. For distribution in this Code see Tables.

"This Act", referred to in the text, is the Defense Housing and Community Facilities and Services Act of 1951, act Sept. 1, 1951, ch. 378, 65 Stat. 293. For distribution of that act, see note under section 1591 of this title.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

HOSPITAL CONSTRUCTION; REVIVAL AND EXTENSION OF LOAN AND GRANT AUTHORITY; EXPIRATION DATE; APPROPRIATION

Section 605 of act Aug. 7, 1956, ch. 1029, 70 Stat. 1114, as amended by Pub. L. 86–372, title VIII, § 804, Sept. 23, 1959, 73 Stat. 687; Pub. L. 87–70, title IX, § 906, June 30, 1961, 75 Stat. 191, provided that:

"(a) Notwithstanding the provisions of section 104 of the Defense Housing and Community Facilities and Services Act of 1951 [section 1591c of this title], the authority under section 304 of such Act [this section] to make loans or grants, or other payments to public and nonprofit agencies for the construction of hospitals is hereby revived and extended with respect to public and nonprofit agencies which have, prior to June 30, 1953, applied under such section 304 [this section] for such loans or grants, or other payments for the construction of hospitals, and have been denied such loans or grants, or other payments solely because of the unavailability of funds for such purpose.

"(b) The authority granted by this section shall expire June 30, 1962.

"(c) There is hereby authorized to be appropriated the sum of $5,000,000 for the purposes of this section for each of the fiscal years ending June 30, 1957, and June 30, 1958, and the sum of $7,500,000 for the purposes of this section for each of the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592d. Administrator's powers with respect to housing, facilities, and services.

(a) Planning, acquisition, construction, etc.

With respect to any housing or community facilities or services which the Administrator is authorized to provide, or any property which he is authorized to acquire, under this Act, the Administrator is authorized by contract or otherwise (without regard to section 1339 of Title 10, section 5 of Title 41, section 278a of Title 40, the Federal Property and Administrative Services Act of 1949, as amended, and prior to the approval of the Attorney General) to make plans, surveys, and investigations; to acquire (by purchase, donation, condemnation or otherwise), construct, erect, extend, remodel, operate, rent, lease, exchange, repair, deal with, insure, maintain, convey, sell for cash or credit, demolish, or otherwise dispose of any property, land, improvement, or interest therein; to provide approaches, utilities, and transportation facilities; to procure necessary materials, supplies, articles, equipment, and machinery; to make advance payments for leased property; to pursue to final disposition by way of compromise or otherwise, claims both for and against the United States (exclusive of claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials, and claims involving administrative expenses) which are not in litigation and which have not been referred to the Department of Justice; and to convey without cost to States and political subdivisions and instrumentalities thereof property for streets and other public thoroughfares and easements for public purposes: *Provided,* That any instrument executed by the Administrator and purporting to convey any right, title or interest in any property acquired pursuant to this subchapter or subchapter X of this chapter shall be conclusive evidence of compliance with the provisions thereof insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned. Notwithstanding any provisions of this Act, housing or community facilities constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State and local laws, ordinances, rules, or regulations relating to health and sanitation, and, to the maximum extent practicable, taking into consideration the availability of materials and the requirements of national defense, any housing or community facilities, except housing or community facilities of a temporary character, constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State or local laws, ordinances, rules, or regulations relating to building codes.

(b) Condemnation.

Before condemnation proceedings are instituted pursuant to this subchapter or subchapter X of this chapter an effort shall be made to acquire the property involved by negotiation unless, because of reasonable doubt as to the identity of the owner or owners, because of the large number of persons with whom it would be necessary to negotiate, or for other reasons, the effort to acquire by negotiation would involve, in the judgment of the Administrator, such delay in acquiring the property as to be contrary to the interest of national defense. In any condemnation proceeding instituted pursuant to this subchapter or subchapter X of this chapter, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 258a of Title 40, providing for such declarations. Unless title is in dispute, the court, upon application, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding.

(c) Return to original owner in certain cases.

If any real property acquired under this subchapter or subchapter X of this chapter is retained after June 30, 1954, without having been used for the purposes of this Act, the Administrator shall, if the original owner desires the property and pays the fair value thereof, return such property to the owner. In the event the Administrator and the original owner do not agree as to the fair value of the property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the Administrator, one by the original owner, and the third by the first two appraisers; the expenses of such determination shall be paid in equal shares by the Government and the original owner. (Sept. 1, 1951, ch. 378, title III, § 305, 65 Stat. 305; June 30, 1953, ch. 170, § 17, 67 Stat. 125.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

Section 1339 of Title 10, referred to in subsec. (a) was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Similar provisions now appear in sections 4774 and 9774 of Title 10, Armed Forces.

"This Act", referred to in the text of subsecs. (a) and (c), refers to the Defense Housing and Community Facilities and Services Act of 1950, act Sept. 1, 1951. For distribution of that act, see note under section 1591 of this title.

AMENDMENTS

1953—Subsec. (c). Act June 30, 1953, substituted "June 30, 1954" for "June 30, 1953".

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592e. Inter-agency transfers of property; application of rules and regulations.

Any Federal agency may, upon request of the Administrator, transfer to his jurisdiction without reimbursement any lands, improved or unimproved, or other property real or personal, considered by the Administrator to be needed or useful for housing or community facilities, or both, to be provided under this subchapter, and the Administrator is authorized to accept any such transfers. The Administrator may also utilize any other real or personal property under his jurisdiction for the purpose of this subchapter without adjustment of the appropriations or funds involved. Any property so transferred or utilized, and any funds in connection therewith, shall be subject only to the authorizations and limitations of this subchapter. The Administrator may, in his discretion, upon request of the Secretary of Defense or his designee, transfer to the jurisdiction of the Department of Defense without reimbursement any land, improvements, housing, or community facilities constructed or acquired under the provisions of this subchapter and considered by the Department of Defense to be required for the purposes of the said Department. Upon the transfer of any such property to the jurisdiction of the Department of Defense, the laws, rules, and regulations relating to property of the Department of Defense shall be applicable to the property so transferred, and the provisions of this subchapter and the rules and regulations issued thereunder shall no longer apply. (Sept. 1, 1951, ch. 378, title III, § 306, 65 Stat. 306.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1592a of this title; title 12 section 1701g–5.

§ 1592f. Preservation of local civil and criminal jurisdiction, and civil rights; jurisdiction of State courts.

Notwithstanding any other provisions of law, the acquisition by the United States of any real property pursuant to this subchapter or subchapter X of this chapter shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property, or impair the civil or other rights under the State or local law of the inhabitants of such property. Any proceedings by the United States for the recovery of possession of any property or project acquired, developed, or constructed under this subchapter or subchapter X of this chapter may be brought in the courts of the States having jurisdiction of such causes. (Sept. 1, 1951, ch. 378, title III, § 307, 65 Stat. 307.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592g. Payment of annual sums to local authorities in lieu of taxes.

The Administrator shall pay from rentals annual sums in lieu of taxes and special assessments to any State and/or political subdivision thereof, with respect to any real property, including improvements thereon, acquired and held by him under this subchapter for residential purposes (or for commercial purposes incidental thereto), whether or not such property is or has been held in the exclusive jurisdiction of the United States. The amount so paid for any year upon such property shall approximate the taxes and special assessments which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation and special assessments, with such allowance as may be considered by him to be appropriate for expenditures by the Federal Government for the provision or maintenance of streets, utilities, or other public services to serve such property. (Sept. 1, 1951, ch. 378, title III, § 308, 65 Stat. 307.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592h. Conditions and requirements as to contracts; utilization of existing facilities; disposition of facilities constructed by United States.

In carrying out this subchapter—

(a) notwithstanding any other provisions of this subchapter, so far as is consistent with emergency needs, contracts shall be subject to section 5 of Title 41;

(b) the cost-plus-a-percentage-of-cost system of contracting shall not be used, but contracts may be made on a cost-plus-a-fixed-fee basis: *Provided,* That the fixed fee shall not exceed 6 per centum of the estimated cost;

(c) wherever practicable, existing private and public community facilities shall be utilized or such facilities shall be extended, enlarged, or equipped in lieu of constructing new facilities; and

(d) all right, title, and interest of the United States in and to any community facilities constructed by the United States pursuant to the authority contained in this subchapter shall (if such agency is willing to accept such facility and operate the same for the purpose for which it was constructed) be disposed of to the appropriate State, city, or other

local agency having responsibility for such type of facility in the area not later than one year after June 30, 1953, and subject to the conditions and requirements hereafter prescribed by the Congress. (Sept. 1, 1951, ch. 378, title III, § 309, 65 Stat. 307.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1592m of this title; title 12 section 1701g–5.

§ 1592i. Laborers and mechanics.

(a) Wages; overtime.

Notwithstanding any other provision of law, the wages of every laborer and mechanic employed on any construction, maintenance, repair, or demolition work authorized by this subchapter shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

(b) Applicability of other laws.

The provisions of the Davis-Bacon Act, as amended; of section 874 of Title 18; and of section 276c of Title 40, shall apply in accordance with their terms to work pursuant to this subchapter.

(c) Stipulations in loan contracts as to wages; certification.

Any contract for loan or grant, or both, pursuant to this subchapter shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, as amended, shall be paid to all laborers and mechanics employed in the construction of the project at the site thereof; and the Administrator shall require certification as to compliance with the provisions of this subsection prior to making any payment under such contract.

(d) Reports by contractors and subcontractors to Secretary of Labor.

Any contractor engaged in the development of any project financed in whole or in part with funds made available pursuant to this subchapter shall report monthly to the Secretary of Labor, and shall cause all subcontractors to report in like manner, within five days after the close of each month and on forms to be furnished by the United States Department of Labor, as to the number of persons on their respective payrolls on the particular project, the aggregate amount of such payrolls, the total man-hours worked, and itemized expenditures for materials. Any such contractor shall furnish to the Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable.

(e) Prescription of standards, regulations, and procedures by Secretary of Labor.

The Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by the Administrator in carrying out the provisions of this subchapter (and cause to be made by the Department of Labor such investigations) with respect to compliance with and enforcement of the labor standards provisions of this section, as he deems desirable. (Sept. 1, 1951, ch. 378, title III, § 310, 65 Stat. 307.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in the text of subsecs. (b) and (c), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592j. Disposition of moneys derived from rentals, operation, and disposition of property.

Moneys derived from rentals, operation, or disposition of property acquired or constructed under the provisions of this subchapter shall be available for expenses of operation, maintenance, improvement, and disposition of any such property, including the establishment of necessary reserves therefor and administrative expenses in connection therewith: *Provided,* That such moneys derived from rentals, operation, or disposition may be deposited in a common fund account or accounts in the Treasury: *And provided further,* That the moneys in such common fund account or accounts shall not exceed $5,000,000 at any time, and all moneys in excess of such amount shall be covered into miscellaneous receipts. (Sept. 1, 1951, ch. 378, title III, § 311, 65 Stat. 308.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592k. Determination of fair rentals and classes of occupants by Administrator.

The Administrator shall fix fair rentals based on the value thereof as determined by him which shall be charged for housing accommodations operated under this subchapter and may prescribe the class or classes of persons who may occupy such accommodations, preferences, or priorities in the rental thereof, and the terms, conditions, and period of such occupancy. (Sept. 1, 1951, ch. 378, title III, § 312, 65 Stat. 308.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by

law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592*l*. Appropriations.

There are authorized to be appropriated—

(a) such sums, not exceeding $100,000,000, as may be necessary for carrying out the provisions and purposes of this subchapter relating to community facilities and services in critical defense housing areas; and

(b) such sums, not exceeding $100,000,000, as may be necessary for carrying out the provisions and purposes of this subchapter relating to housing in critical defense housing areas. (Sept. 1, 1951, ch. 378, title III, § 313, 65 Stat. 308; July 14, 1952, ch. 723, § 4, 66 Stat. 602.)

AMENDMENTS

1952—Act July 14, 1952, increased the appropriation authorization in subsec. (a) from $60,000,000 to $100,000,000 and in subsec. (b) from $50,000,000 to $100,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g–5.

§ 1592m. Transfer of functions and funds in certain cases.

Subject to all of the limitations and restrictions of this Act, including, specifically, the requirements of subsection (c) of section 1591b of this title and of subsections (c) and (d) of section 1592h of this title, where any other officer, department, or agency is performing, or, in the determination of the President, has facilities adapted to the performance of, functions, powers and duties similar, or directly related, to any of the functions, powers and duties which the Housing and Home Finance Administrator is authorized by this subchapter to perform with respect to the construction, maintenance or operation of community facilities for recreation, and day-care centers, or the provision of community services, the President may transfer to such other officer, department, or agency any of the functions, powers, and duties authorized by this subchapter to be performed with respect thereto if he finds that such transfer will assist the furtherance of national defense activities, and upon any such transfer, funds in such amount as the Director of the Office of Management and Budget shall determine, but in no event in excess of the balance of any moneys appropriated to the Housing and Home Finance Administrator pursuant to the authorization therefor contained in this subchapter for the performance of the transferred functions, powers, and duties, may also be transferred by the President to such other officer, department, or agency: *Provided,* That the President, by Executive Order or otherwise, may prescribe or direct the manner in which any functions, powers, and duties, which the Housing and Home Finance Administrator is authorized by this subchapter to perform with respect to assistance for the construction, or the construction of, any community facilities, shall be administered in coordination with other officers, departments, or agencies having functions or activities related thereto. (Sept. 1, 1951, ch. 378, title III, § 314, 65 Stat. 308; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. ——.)

REFERENCES IN TEXT

"This Act," referred to in the text, is the Defense Housing and Community Facilities and Services Act of 1951. For distribution of that act, see note under section 1591 of this title.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

EX. ORD. NO. 10296. PERFORMANCE OF DEFENSE HOUSING FUNCTIONS

Ex. Ord. No. 10296, Oct. 2, 1951, 16 F.R. 10103, as amended by Ex. Ord. No. 10461, June 17, 1953, 18 F.R. 3513; Ex. Ord. No. 10593, Jan. 27, 1955, 20 F.R. 599; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, provided:

1. The Director of the Office of Emergency Planning [now Office of Emergency Preparedness] is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the function vested in the President by section 101 of the said Defense Housing and Community Facilities and Services Act of 1951 [section 1591 of this title] of determining critical defense-housing areas and of making the findings relative to such determinations required by section 101(b) of the said Act [section 1591(b) of this title].

2. The Director of the Office of Emergency Planning is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the functions vested in the President by section 104 of the Defense Housing and Community Facilities and Services Act of 1951, as amended [section 1591c of this title] (which Act, as amended, is hereinafter referred to as the Act), relative to the designation of periods during which, and relative to the designation of projects for which:

(1) Mortgages may be insured under Title IX of the National Housing Act, as amended [sections 1750—1750g of Title 12].

(2) Agreements may be made to extend assistance for the provision of community facilities or services under Title III of the Act [sections 1592—1592o of this title.]

(3) The construction of temporary housing or community facilities may be begun by the United States under Title III of the Act [sections 1592—1592o of this title].

(a) The authority vested in the President by section 401 of the Act [section 1593 of this title] to define defense installations, and to make findings that in connection with any defense installation developed or to be developed in an isolated or relatively isolated area (1) housing or community facilities needed for such installation would not otherwise be provided when and where required or (2) there would otherwise be speculation or uneconomic

use of land resources which would impair the efficiency of defense activities at such installation.

(b) The authority vested in the President by section 402 of the Act [section 1593a of this title] to make findings that it is necessary or desirable in the public interest that land shall be acquired by the Housing and Home Finance Administrator not only for the purposes of section 401 of the Act [section 1593 of this title] but also for the defense installation to be served thereby.

3. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the function vested in the President by section 102 (b) of the Act [section 1591a (b) of this title], relative to the suspension and relaxation of residential credit restrictions under the Defense Production Act of 1950, as amended [50 App. §§ 2061—2166].

4. Except, as provided in paragraph 5 hereof, the functions authorized by Title III of the Act [sections 1592—1592o of this title] to be performed with respect to or in furtherance of the provision, maintenance, or operation of community facilities for, and with respect to or in furtherance of the provision of community services for, recreation and child day-care centers are hereby transferred to the Federal Security Administrator and shall be performed by him or by such officers and units of the Federal Security Agency as he may determine.

5. There are hereby excluded from the transfers effected by paragraph 4 hereof (a) functions with respect to site selection and land acquisition for, and the construction (including the letting of construction contracts, the preparation and approval of plans and specifications, and the supervision of construction work and of expenditures therefor) of, projects approved by the Federal Security Administrator, whether such construction is performed on behalf of, or is aided by, the Federal Government, (b) the servicing of loans for the construction of projects so approved, and (c) the functions under the second and third provisos of section 304 of the Act [section 1592c of this title] and those under sections 103 (a) and 103 (b) of the Act [sections 1591b (a) and (b) of this title]: *Provided,* that (1), the Federal Security Administrator or his delegate shall determine the general layout, size, and special design features appropriate to the particular type of facility, and (2) that final plans and specifications shall conform to such determinations.

6. In the performance of functions with respect to roads and highways under the Act, the Housing and Home Finance Administrator shall from time to time consult with the Secretary of Commerce or his representative as to the relationship of road and highway projects under the said Act to road and highway programs under the jurisdiction of the said Secretary.

7. In the performance of functions under Title III of the Act [sections 1592—1592o of this title] in Territories there shall be consultation with the Secretary of the Interior or his representative as to the relationship of proposed facilities and services in Territories to Territorial programs of the Department of the Interior.

8. The Housing and Home Finance Administrator, in connection with the performance of the pertinent functions vested in him by Title III of the Act [sections 1592—1592o of this title], shall obtain the approval of the Surgeon General of the Public Health Service or his representative with respect to the public health aspects of sources of water supply developed, utilized, or aided by the said Administrator, and shall consult with the Surgeon General or his representative with respect to the public health aspects of water distribution systems and sewerage systems constructed or aided by the Administrator.

9. Subject to the consent of the Housing and Home Finance Administrator, the Surgeon General of the Public Health Service shall utilize the facilities and services of the Housing and Home Finance Agency for the performance of the following aspects of the functions conferred upon him by section 316 of the Act [section 1592o of this title]: (a) the construction by the Federal Government of projects approved by the Surgeon General (including the letting of construction contracts, the preparation or review of plans and specifications, and the supervision of construction work and expenditures therefor), (b) land acquisition for projects to be so constructed, and (c) the obtaining of information required for the purpose of, and the furnishing of recommendations with respect to, (i) the findings provided for in sections 103 (a) and 103 (b) of the Act [sections 1591b (a) and (b) of this title], and (ii) the actions provided for in the second and third provisos of section 304 of the Act [section 1592c of this title]. The Surgeon General shall pay the Housing and Home Finance Agency for such utilization, either in advance or otherwise, out of funds available to him for the performance of such functions.

10. Subject to the consent of the Federal Security Administrator, the Housing and Home Finance Administrator shall utilize the facilities and services of the Federal Security Agency in connection with the providing of library facilities under Title III of the Act [sections 1592—1592o of this title] in such manner that the division of work with respect to library facilities as between the Housing and Home Finance Administrator and the Federal Security Administrator will be the same as that with respect to recreation and child day-care center facilities as indicated in paragraphs 4 and 5 of this order. The Housing and Home Finance Administrator shall pay the Federal Security Administrator for such utilization, either in advance or otherwise, out of funds available to the Housing and Home Finance Administrator for the performance of the functions involved.

11. Paragraphs 9 and 10 shall not be construed as a limitation upon the Surgeon General or the Housing and Home Finance Administrator, as the case may be, with respect to utilization or delegation other than that referred to in such paragraphs and not inconsistent with the provisions of such paragraphs, respectively, or as divesting either the Surgeon General or the Administrator of any function conferred upon him by the Act.

12. As used in this order the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

OFFICE OF EMERGENCY PREPAREDNESS

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90-608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g-5.

§ 1592n. Definitions.

As used in this subchapter, the following terms shall have the meanings respectively ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "State" shall mean the several States, the District of Columbia, and Territories, and possessions of the United States.

(b) "Federal agency" shall mean any executive department or officer (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly.

(c) "Community facility" shall mean waterworks, sewers, sewage, garbage and refuse disposal facilities, police and fire protection facilities, public sanitary facilities, works for treatment and purification of water, libraries, hospitals and other places for the care of the sick, recreational facilities, streets and roads, and day-care centers.

(d) "Community service" shall mean the maintenance and operation of facilities for health, refuse disposal, sewage treatment, recreation, water puri-

fication, and day-care centers, and the provision of fire-protection.

(e) "National defense" shall mean (1) the operations and activities of the armed forces, the Atomic Energy Commission, or any other Government department or agency directly or indirectly and substantially concerned with the national defense, (2) other operations and activities directly or indirectly and substantially concerned with the operations and activities of the armed forces and the Atomic Energy Commission, (3) activities in connection with the Mutual Defense Assistance Act of 1949, as amended, or (4) the provision of community facilities or services necessary to the health, safety, or public welfare of the inhabitants of a town or community which has been relocated as a result of the acquisition (through eminent domain or purchase in lieu thereof) of its former site by or on behalf of the Atomic Energy Commission for national-defense activities.

(f) "Nonprofit agency" shall mean any agency no part of the net earnings of which inures to the benefit of any private stockholder or individual.

(g) "Project" shall mean housing or community facilities acquired, developed, or constructed with financial assistance pursuant to this subchapter.

(h) "Veteran" shall mean a person, or the family of a person, who has served in the active military or naval service of the United States at any time (i) on or after September 16, 1940, and prior to July 26, 1947, (ii) on or after April 6, 1917, and prior to November 11, 1918, or (iii) on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President, and who shall have been discharged or released therefrom under conditions other than dishonorable or who shall be still serving therein. The term shall also include the family of a person who served in the active military or naval service of the United States within any such period and who shall have died of causes determined by the Veterans' Administration to have been service-connected. (Sept. 1, 1951, ch. 378, title III, § 315, 65 Stat. 309; June 30, 1953, ch. 170, § 18, 67 Stat. 126.)

REFERENCES IN TEXT

The Mutual Defense Assistance Act of 1949, as amended, referred to in the text of subsec. (e), was formerly classified to chapter 20 of Title 22, Foreign Relations and Intercourse, and was repealed by act Aug. 26, 1954, ch. 937, title V, § 542 (a)(5), (9)—(11), 68 Stat. 861. See chapter 32 of title 22.

AMENDMENTS

1953—Subsec. (e). Act June 30, 1953, added clause (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g-5.

§ 1592*o*. Powers of Surgeon General of Public Health Service.

Notwithstanding any other provision of this subchapter, all functions, powers, and duties under this subchapter and section 1591b of this title with respect to health, refuse disposal, sewage treatment, and water purification shall be exercised by and vested in the Surgeon General of the Public Health Service: *Provided*, That the Surgeon General shall have power to delegate to any other Federal agency functions, powers, and duties with respect to construction. (Sept. 1, 1951, ch. 378, title III, § 316, 65 Stat. 310.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan. No. 3, set out as a note under section 202 of this title.

SUBCHAPTER X.—DEVELOPMENT SITES FOR ISOLATED DEFENSE INSTALLATIONS

EXPIRATION DATE

For expiration of authority of Housing and Home Administrator to act under this subchapter, see section 1591c of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1592d, 1592f of this title.

§§ 1593 to 1593d. Repealed. June 30, 1953, ch, 170, § 19, 67 Stat. 126.

Sections, act Sept. 1, 1951, ch. 378, title IV, §§ 401—405, 65 Stat. 310, 311, dealt with provision and development of sites for housing and community facilities to serve new defense installations in isolated areas.

Section 1593 was amended by act July 14, 1952, ch. 723, § 10 (d), 66 Stat. 604.

§ 1593e. Housing of persons displaced by acquisition of property for defense installations or industries.

Upon a finding by the Housing and Home Finance Administrator that the acquisition of any real property for a defense installation or industry has resulted, or will result, in the displacement of persons from their homes on such property, he may (notwithstanding any other provision of this or any other law) issue regulations pursuant to which such persons may be permitted to occupy or purchase housing for which credit restrictions established pursuant to the Defense Production Act of 1950 have been relaxed or housing which has been provided or assisted under the provisions of this Act (including amendments to other Acts provided herein), subject to any conditions or requirements that he determines necessary for purposes of national defense. (Sept. 1, 1951, ch. 378, title VI, § 611, 65 Stat. 316.)

REFERENCES IN TEXT

Word "this" in the words "this or any other law" and "this Act", referred to in the text, refers to the Defense Housing and Community Facilities and Services Act of 1951, act Sept. 1, 1951. For distribution of that act, see note under section 1591 of this title.

The Defense Production Act of 1950, referred to in the text, is classified to sections 2061—2166 of Title 50, Appendix, War and National Defense.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

use of land resources which would impair the efficiency of defense activities at such installation.

(b) The authority vested in the President by section 402 of the Act [section 1593a of this title] to make findings that it is necessary or desirable in the public interest that land shall be acquired by the Housing and Home Finance Administrator not only for the purposes of section 401 of the Act [section 1593 of this title] but also for the defense installation to be served thereby.

3. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the function vested in the President by section 102 (b) of the Act [section 1591a (b) of this title], relative to the suspension and relaxation of residential credit restrictions under the Defense Production Act of 1950, as amended [50 App. §§ 2061—2166].

4. Except, as provided in paragraph 5 hereof, the functions authorized by Title III of the Act [sections 1592—1592o of this title] to be performed with respect to or in furtherance of the provision, maintenance, or operation of community facilities for, and with respect to or in furtherance of the provision of community services for, recreation and child day-care centers are hereby transferred to the Federal Security Administrator and shall be performed by him or by such officers and units of the Federal Security Agency as he may determine.

5. There are hereby excluded from the transfers effected by paragraph 4 hereof (a) functions with respect to site selection and land acquisition for, and the construction (including the letting of construction contracts, the preparation and approval of plans and specifications, and the supervision of construction work and of expenditures therefor) of, projects approved by the Federal Security Administrator, whether such construction is performed on behalf of, or is aided by, the Federal Government, (b) the servicing of loans for the construction of projects so approved, and (c) the functions under the second and third provisos of section 304 of the Act [section 1592c of this title] and those under sections 103 (a) and 103 (b) of the Act [sections 1591b (a) and (b) of this title]: *Provided*, that (1), the Federal Security Administrator or his delegate shall determine the general layout, size, and special design features appropriate to the particular type of facility, and (2) that final plans and specifications shall conform to such determinations.

6. In the performance of functions with respect to roads and highways under the Act, the Housing and Home Finance Administrator shall from time to time consult with the Secretary of Commerce or his representative as to the relationship of road and highway projects under the said Act to road and highway programs under the jurisdiction of the said Secretary.

7. In the performance of functions under Title III of the Act [sections 1592—1592o of this title] in Territories there shall be consultation with the Secretary of the Interior or his representative as to the relationship of proposed facilities and services in Territories to Territorial programs of the Department of the Interior.

8. The Housing and Home Finance Administrator, in connection with the performance of the pertinent functions vested in him by Title III of the Act [sections 1592—1592o of this title], shall obtain the approval of the Surgeon General of the Public Health Service or his representative with respect to the public health aspects of sources of water supply developed, utilized, or aided by the said Administrator, and shall consult with the Surgeon General or his representative with respect to the public health aspects of water distribution systems and sewerage systems constructed or aided by the Administrator.

9. Subject to the consent of the Housing and Home Finance Administrator, the Surgeon General of the Public Health Service shall utilize the facilities and services of the Housing and Home Finance Agency for the performance of the following aspects of the functions conferred upon him by section 316 of the Act [section 1592o of this title]: (a) the construction by the Federal Government of projects approved by the Surgeon General (including the letting of construction contracts, the preparation or review of plans and specifications, and the supervision of construction work and expenditures therefor), (b) land acquisition for projects to be so constructed, and (c) the obtaining of information required for the purpose of, and the furnishing of recommendations with respect to, (i) the findings provided for in sections 103 (a) and 103 (b) of the Act [sections 1591b (a) and (b) of this title], and (ii) the actions provided for in the second and third provisos of section 304 of the Act [section 1592c of this title]. The Surgeon General shall pay the Housing and Home Finance Agency for such utilization, either in advance or otherwise, out of funds available to him for the performance of such functions.

10. Subject to the consent of the Federal Security Administrator, the Housing and Home Finance Administrator shall utilize the facilities and services of the Federal Security Agency in connection with the providing of library facilities under Title III of the Act [sections 1592—1592o of this title] in such manner that the division of work with respect to library facilities as between the Housing and Home Finance Administrator and the Federal Security Administrator will be the same as that with respect to recreation and child day-care center facilities as indicated in paragraphs 4 and 5 of this order. The Housing and Home Finance Administrator shall pay the Federal Security Administrator for such utilization, either in advance or otherwise, out of funds available to the Housing and Home Finance Administrator for the performance of the functions involved.

11. Paragraphs 9 and 10 shall not be construed as a limitation upon the Surgeon General or the Housing and Home Finance Administrator, as the case may be, with respect to utilization or delegation other than that referred to in such paragraphs and not inconsistent with the provisions of such paragraphs, respectively, or as divesting either the Surgeon General or the Administrator of any function conferred upon him by the Act.

12. As used in this order the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

OFFICE OF EMERGENCY PREPAREDNESS

The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90-608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, with references in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, references to the Office of Emergency Preparedness.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g-5.

§ 1592n. Definitions.

As used in this subchapter, the following terms shall have the meanings respectively ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "State" shall mean the several States, the District of Columbia, and Territories, and possessions of the United States.

(b) "Federal agency" shall mean any executive department or officer (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly.

(c) "Community facility" shall mean waterworks, sewers, sewage, garbage and refuse disposal facilities, police and fire protection facilities, public sanitary facilities, works for treatment and purification of water, libraries, hospitals and other places for the care of the sick, recreational facilities, streets and roads, and day-care centers.

(d) "Community service" shall mean the maintenance and operation of facilities for health, refuse disposal, sewage treatment, recreation, water puri-

fication, and day-care centers, and the provision of fire-protection.

(e) "National defense" shall mean (1) the operations and activities of the armed forces, the Atomic Energy Commission, or any other Government department or agency directly or indirectly and substantially concerned with the national defense, (2) other operations and activities directly or indirectly and substantially concerned with the operations and activities of the armed forces and the Atomic Energy Commission, (3) activities in connection with the Mutual Defense Assistance Act of 1949, as amended, or (4) the provision of community facilities or services necessary to the health, safety, or public welfare of the inhabitants of a town or community which has been relocated as a result of the acquisition (through eminent domain or purchase in lieu thereof) of its former site by or on behalf of the Atomic Energy Commission for national-defense activities.

(f) "Nonprofit agency" shall mean any agency no part of the net earnings of which inures to the benefit of any private stockholder or individual.

(g) "Project" shall mean housing or community facilities acquired, developed, or constructed with financial assistance pursuant to this subchapter.

(h) "Veteran" shall mean a person, or the family of a person, who has served in the active military or naval service of the United States at any time (i) on or after September 16, 1940, and prior to July 26, 1947, (ii) on or after April 6, 1917, and prior to November 11, 1918, or (iii) on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President, and who shall have been discharged or released therefrom under conditions other than dishonorable or who shall be still serving therein. The term shall also include the family of a person who served in the active military or naval service of the United States within any such period and who shall have died of causes determined by the Veterans' Administration to have been service-connected. (Sept. 1, 1951, ch. 378, title III, § 315, 65 Stat. 309; June 30, 1953, ch. 170, § 18, 67 Stat. 126.)

REFERENCES IN TEXT

The Mutual Defense Assistance Act of 1949, as amended, referred to in the text of subsec. (e), was formerly classified to chapter 20 of Title 22, Foreign Relations and Intercourse, and was repealed by act Aug. 26, 1954, ch. 937, title V, § 542 (a)(5), (9)—(11), 68 Stat. 861. See chapter 32 of title 22.

AMENDMENTS

1953—Subsec. (e). Act June 30, 1953, added clause (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1701g-5.

§ 1592o. Powers of Surgeon General of Public Health Service.

Notwithstanding any other provision of this subchapter, all functions, powers, and duties under this subchapter and section 1591b of this title with respect to health, refuse disposal, sewage treatment, and water purification shall be exercised by and vested in the Surgeon General of the Public Health Service: *Provided*, That the Surgeon General shall have power to delegate to any other Federal agency functions, powers, and duties with respect to construction. (Sept. 1, 1951, ch. 378, title III, § 316, 65 Stat. 310.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan. No. 3, set out as a note under section 202 of this title.

SUBCHAPTER X.—DEVELOPMENT SITES FOR ISOLATED DEFENSE INSTALLATIONS

EXPIRATION DATE

For expiration of authority of Housing and Home Administrator to act under this subchapter, see section 1591c of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1592d, 1592f of this title.

§§ 1593 to 1593d. Repealed. June 30, 1953, ch, 170, § 19, 67 Stat. 126.

Sections, act Sept. 1, 1951, ch. 378, title IV, §§ 401—405, 65 Stat. 310, 311, dealt with provision and development of sites for housing and community facilities to serve new defense installations in isolated areas.

Section 1593 was amended by act July 14, 1952, ch. 723, § 10 (d), 66 Stat. 604.

§ 1593e. Housing of persons displaced by acquisition of property for defense installations or industries.

Upon a finding by the Housing and Home Finance Administrator that the acquisition of any real property for a defense installation or industry has resulted, or will result, in the displacement of persons from their homes on such property, he may (notwithstanding any other provision of this or any other law) issue regulations pursuant to which such persons may be permitted to occupy or purchase housing for which credit restrictions established pursuant to the Defense Production Act of 1950 have been relaxed or housing which has been provided or assisted under the provisions of this Act (including amendments to other Acts provided herein), subject to any conditions or requirements that he determines necessary for purposes of national defense. (Sept. 1, 1951, ch. 378, title VI, § 611, 65 Stat. 316.)

REFERENCES IN TEXT

Word "this" in the words "this or any other law" and "this Act", referred to in the text, refers to the Defense Housing and Community Facilities and Services Act of 1951, act Sept. 1, 1951. For distribution of that act, see note under section 1591 of this title.

The Defense Production Act of 1950, referred to in the text, is classified to sections 2061—2166 of Title 50, Appendix, War and National Defense.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89-174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89-174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89-174 shall lapse.

SUBCHAPTER XI.—HOUSING FOR MILITARY PERSONNEL

§ 1594. Contracts for construction.

(a) Contract provisions; competitive bids.

The Secretary of Defense or his designee is authorized to enter into contracts with any eligible bidder to provide for the construction of urgently needed housing on lands owned or leased by the United States and situated on or near a military reservation or installation for the purpose of providing suitable living accommodations for military personnel of the armed services assigned to duty at the military installation at or in the area where the housing is situated. Any such contract shall provide that each housing unit in the project shall be placed under the control of the Secretary of Defense, or his designee, as soon as the unit is available for occupancy as determined by the Secretary of Housing and Urban Development. Any such contract shall also provide that, except for stock held by the Secretary of Housing and Urban Development, the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the Secretary of Defense, or his designee, when the housing has been completed as determined by the Secretary of Housing and Urban Development. Any such contract shall contain such terms and conditions as the Secretary of Defense may determine to be necessary to protect the interests of the United States. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with a surety or sureties satisfactory to the Secretary of Defense, or his designee, and the furnishing of such bonds shall be deemed a sufficient compliance with the provisions of section 270a of Title 40, and no additional bonds shall be required under such section. Before the Secretary of Defense shall enter into any contract as authorized by this section for the construction of housing, he shall invite the submission of competitive bids after advertising in the manner prescribed in section 152 of Title 41.

(b) Definition of "eligible bidder."

For the purposes of this subchapter, the term "eligible bidder" means a person, partnership, firm, or corporation determined by the Secretary of Defense after consultation with the Secretary of Housing and Urban Development (1) to be qualified by experience and financial responsibility to construct housing of the type described in subsection (a) of ths section, and (2) to have submitted the lowest acceptable bid.

(c) Acquisition of capital stock of property covered by mortgage.

Notwithstanding any other provision of law, the Secretary of Defense or his designee is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage insured under title VIII of the National Housing Act as amended by the Housing Amendments of 1955, and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments required by the Secretary of Housing and Urban Development of such mortgagors; to make payments thereon; and to guarantee and indemnify the Armed Services Housing Mortgage Insurance Fund against loss in cases where so required. All housing facilities placed under the control of the Secretary of Defense pursuant to the provisions of this subchapter shall be deemed to be housing facilities under the jurisdiction of the military department to which they are assigned.

(d) Opinion as to title to property; guarantee; title search and title insurance.

On request by the Secretary of Defense, the Attorney General shall furnish to the Secretary of Defense, or his designee, an opinion as to the sufficiency of title to any property on which it is proposed ot construct housing, or on which housing has been constructed, under this section. If the opinion of the Attorney General is that the title to any such property is good and sufficient, the Secretary of Defense is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, under a mortgage on such property which is insured under title VIII of the National Housing Act, against any losses that may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured under such title VIII shall be used for title search and title insurance costs: *Provided,* That if the Secretary of Defense, or his designee, determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the Secretary of Defense may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any payments by the Secretary of Defense hereunder shall be made from the revolving fund established under section 1594a (g) of this title. Any determination by the Secretary of Defense under the foregoing proviso shall be set forth in writing, together with the reasons therefor. The Committees on Armed Services of the Senate and House of Representatives shall be promptly notified of each such determination, and of the amount of any payment made by the Secretary of Defense for title search and title insurance costs. (Aug. 11, 1955, ch. 783, title IV, § 403, 69 Stat. 651; Aug. 7, 1956, ch. 1029, title V, §§ 506(b)—(d), 507, 70 Stat. 1110; Aug. 10, 1959, Pub. L. 86–149, title IV, 415, 73 Stat, 323; May 25, 1967, Pub. L. 90–19, § 12(d), (h)(1)—(3), 81 Stat. 23, 24.)

References in Text

Section 152 of Title 41, referred to in subsec. (a), was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and is now covered by section 2305 of Title 10, Armed Forces.

Title VIII of the National Housing Act, as amended by the Housing Amendments of 1955, referred to in subsec. (c), refers to title VIII of act June 27, 1934, ch. 847 as amended by act Aug. 11, 1955, § 401, classified to section 1748 et seq. of Title 12, Banks and Banking.

Title VIII of the National Housing Act, referred to in subsec. (d), refers to title VIII of act June 27, 1934, ch. 847, classified to section 1748 et seq. of Title 12.

Section 1594a(g) of this title, referred to in subsec. (d), was repealed by Pub. L. 87–554, title V, § 501(d), July 27, 1962, 76 Stat. 237.

Amendments

1967—Pub. L. 90–19, § 12(d), substituted "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing in subsecs. (a)—(c).

Subsec. (a). Pub. L. 90–19, § 12(h)(1), substituted "Secretary of Defense" for "Secretary" in the fourth and sixth sentences.

Subsec. (b). Pub. L. 90–19, § 12(h) (2), substituted "Secretary of Defense" for "Secretary".

Subsec. (d). Pub. L. 90–19, § 12(h) (3), substituted "Secretary of Defense" for "Secretary" in the last three sentences.

1959—Subsec. (d). Pub. L. 86–149 added subsec. (d).

1956—Subsec. (a). Act Aug. 7, 1956, §§ 506 (b), (c), (d), and 507, substituted "eligible bidder" for "eligible builder" in the first sentence; substituted "the mortgagor" for "the builder" in two places in the third sentence; inserted provision before the last sentence, relating to furnishing by contractor of a performance bond and a payment bond with surety satisfactory to Secretary; and eliminated from last sentence, the words "with any builder" which followed words "Before the Secretary shall enter into any contract".

Subsec. (b). Act Aug. 7, 1956, § 506 (b), substituted "eligible bidder" for "eligible builder".

SAVINGS PROVISIONS

Section 408 of act Aug. 11, 1955, as amended by act Aug. 7, 1956, § 511, provided that: "Notwithstanding the provisions of section 401 of this Act [this section], the provisions of title VIII of the National Housing Act [section 1748—1748h of Title 12, Banks and Banking] in effect prior to the enactment of the Housing Amendments of 1955 [August 11, 1955] shall continue in full force and effect with respect to all mortgages insured pursuant to a certification by the Secretary of Defense or his designee made on or before June 30, 1955, and a commitment to insure issued on or before June 30, 1956 or pursuant to a certification by the Atomic Energy Commission or its designee made on or before June 30, 1956, except that the maximum dollar amount for each such mortgage shall be $12,500,000. Nothing contained in the provisions of title VIII of the National Housing Act in effect prior to August 11, 1955 [sections 1748—1748h of Title 12] or any related provision of law, shall be construed to exempt from State or local taxes or assessments the interest of a lessee from the Federal Government in or with respect to any property covered by a mortgage insured under such provisions of title VIII: *Provided,* That, no such taxes or assessments (not paid or encumbering such property or interest prior to June 15, 1956) on the interest of such lessee shall exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to (1) any payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property, plus (2) such amount as may be appropriate for any expenditudes made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal or any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority with respect to such other similar property: *And provided further,* That the provisions of this section shall not apply to properties leased pursuant to the provisions of section 805 of the National Housing Act as amended on or after August 11, 1955 [section 1748d of Title 12], which properties shall be exempt from State or local taxes or assessments."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1594d of this title; title 12 section 1748b.

§ 1594a. Acquisition of military housing financed under Armed Services Housing Mortgage Insurance Fund and rental housing at military bases.

(a) Purchase price.

Whenever the Secretary of Defense or his designee deems it necessary for the purpose of this subchapter, he may acquire, by purchase, donation, condemnation, or other means of transfer, any land or (with the approval of the Secretary of Housing and Urban Development) (1) any housing financed with mortgages insured under title VIII of the National Housing Act as in effect prior to enactment of the Housing Amendments of 1955, or (2) any housing situated adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 1713 of Title 12, or (3) any housing situated on or adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) considered by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 1743 of Title 12, including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing. The purchase price of any such housing shall not exceed the Secretary of Housing and Urban Development's estimate of the replacement cost of such housing and related property (not including the value of any improvements installed or constructed with appropriated funds) as of the date of final endorsement for mortgage insurance reduced by an appropriate allowance representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition, as determined by the Secretary of Defense or his designee upon the advice of the Secretary of Housing and Urban Development: *Provided,* That in any case where the Secretary of Defense or his designee acquires a project held by the Secretary of Housing and Urban Development, the price paid shall not exceed the face value of the debentures (plus accrued interest thereon) which the Secretary of Housing and Urban Development issued in acquiring such project.

(b) Housing at or near a military installation.

Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary of Defense or his designee shall, in the manner provided in subsection (a) of this section, acquire by purchase, donation, or other means of transfer or, if the parties cannot agree upon terms for acquisition by such means, by condemnation, any housing described in clause (1) or (2) of subsection (a) of this section which is located at or near a military installation where the construction of housing under the Armed Services Housing Mortgage Insurance Program has been approved by the Secretary.

(c) Condemnation; procedures; deposit; payment; interest.

(1) Condemnation proceedings instituted pursuant to this section shall be conducted in accordance with the provisions of section 257 of Title 40, or any other applicable Federal statute. Before any such condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation. In any such condemnation proceedings, and in the interests of expedition, the issue of just compensation may be determined by a commission of three qualified, disinterested persons to be appointed by the court. Any commission appointed hereunder shall give full consideration to all elements of value in accordance with existing

law, and shall have the powers of a master provided in subdivision (c) of rule 53 of the Federal Rules of Civil Procedure and proceedings before it shall be governed by the provisions of paragraphs (1) and (2) of subdivision (d) of such rule. Its action and report shall be determined by a majority and its findings and report shall have the effect, and be dealt with by the court in accordance with the practice prescribed in paragraph (2) of subdivision (e) of such rule. Trial of all issues, other than just compensation, shall be by the court.

(2) In any condemnation proceedings instituted to acquire any such housing, or interest therein, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 258a of Title 40. The amount of such deposit for the purpose of this section shall not in any case be less than an amount equal to the actual cost of the housing (not including the value of any improvements installed or constructed with appropriated funds) as certified by the sponsor or owner of the project to the Secretary of Housing and Urban Development pursuant to any statute or any regulations issued by the Secretary of Housing and Urban Development, reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, but any such deposit shall not include any excess mortgage proceeds or "windfalls," kickbacks and rebates received in connection with the construction of said housing as determined by the Department of Defense, or any other Federal agency. The amount of such deposit in any case where the sponsor or owner has not certified the cost of the project to the Secretary of Housing and Urban Development at the time of the enactment of the Military Construction Act of 1959, shall be determined by the Secretary of Defense, or his designee, in accordance with sections 258a to 258e of Title 40, with a view toward accurately estimating the equity of the sponsor or owner: *Provided,* That in the event there is withdrawn from the registry of the court by the owner or sponsor a sum of money in excess of the final award of just compensation, this excess shall be repaid to the United States plus a sum equal to 4 per centum per annum on such excess from the time such sum is deposited in the registry of the court: *Provided further,* That any court in which money is deposited as provided in this section shall require the furnishing of security by the owner to protect the United States from any loss by reason of a final award of just compensation of less than the amount deposited: *And provided further,* That the deposit required to be made by this section shall be without prejudice to any party in the determination of just compensation. Unless title is in dispute, the court, upon application and subject to the foregoing provisions of this subsection, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding. In the event that condemnation proceedings are instituted in accordance with procedures under sections 258a to 258e of Title 40, the court shall order that the amount deposited shall be paid in a lump sum or over a period not exceeding five years in accordance with stipulations executed by the parties in the proceedings. In connection with condemnation proceedings which do not utilize the procedures under such sections, the Secretary of Defense or his designee, after final judgment of the court, may pay or agree to pay in a lump sum or, in accordance with stipulations executed by the parties to the proceedings, over a period not exceeding five years the difference between the outstanding principal obligation, plus accrued interest, and the price for the property fixed by the court. Unless such payment is made in a lump sum, the unpaid balance thereof shall bear interest at the rate of 4 per centum per annum.

(d) Occupancy; use, or improvement of property before approval of title.

Property acquired under this section may be occupied, used, and improved for the purposes of this section prior to the approval of title by the Attorney General as required by section 255 of Title 40.

(e) Release of accrual requirements for replacement, taxes, and hazard insurance reserves.

The Secretary of Defense or his designee may, in the case of any housing acquired or to be acquired under this section, make arrangements with the mortgage whereby such mortgage will agree to release and waive all requirements of accruals for reserves for replacement, taxes, and hazard insurance provided for under the corporate charter and indenture agreement with respect to such housing, upon the execution of a written agreement by the Secretary or his designee that the purposes for which such reserves and other funds were accrued will be carried out.

(f) Use as public quarters or lease of housing.

Any housing acquired under this section may be (1) assigned as public quarters to military personnel and their dependents; or (2) leased to military and civilian personnel for occupancy by them and their dependents, upon such terms and conditions as will in the judgment of the Secretary of Defense or his designee be in the best interest of the United States, without loss to military personnel of their basic allowance for quarters or appropriate allotments. (Aug. 11, 1955, ch. 783, title IV, § 404, 69 Stat. 652; Aug. 3, 1956, ch. 939, title IV, § 420, 70 Stat. 1019; Aug. 7, 1956, ch. 1029, title V, § 512, 70 Stat. 1111; July 12, 1957, Pub. L. 85–104, title V, § 504, 71 Stat. 303; Aug. 20, 1958, Pub. L. 85–685, title V, § 513 (d), 72 Stat. 663; Aug. 10, 1959, Pub. L. 86–149, title IV, § 418, 73 Stat. 323; Sept. 23, 1959, Pub. L. 86–372, title VII, §§ 702 (a), (b), 703, 73 Stat. 683; July 27, 1962, Pub. L. 87–554, title V, § 501(d), 76 Stat. 237; Sept. 2, 1964, Pub. L. 88–560, title X, § 1003, 78 Stat. 806; May 25, 1967, Pub. L. 90–19, § 12(e), (h)(4)–(6), 81 Stat. 23, 24.)

REFERENCES IN TEXT

Title VIII of the National Housing Act as in effect prior to the enactment of the Housing Amendments of 1955, referred to in subsec. (a), refers to title VIII of act June 27, 1934, ch. 847, as in effect prior to Aug. 11, 1955, the date of enactment of act Aug. 11, 1955, which is classified to section 1748 et seq. of Title 12, Banks and Banking.

"At the time of the enactment of the Military Construction Act of 1959", referred to in subsec. (c)(2), means the time of the enactment of Pub. L. 86–149, which was approved on Aug. 10, 1959.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19, § 12(e)(1)—(3), (h)(4), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing in the first sentence, "Secretary of Housing and Urban Development's" for "Federal Housing Commissioner's", "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing in the second sentence, and "Secretary of Defense" for "Secretary" in the proviso, respectively.

Subsec. (c)(2). Pub. L. 90-19, § 12(e)(1), (h)(5), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing and "Secretary of Defense" for "Secretary" in the penultimate sentence, respectively.

Subsec. (e). Pub. L. 90-19, § 12(h)(6), substituted "Secretary of Defense" for "Secretary".

1964—Subsec. (a). Pub. L. 88-560 authorized the acquisition of housing on or adjacent to a military installation completed prior to July 1, 1952, considered necessary to meet existing military family need, considered military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 1743 of title 12, including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing.

1962—Subsec. (f). Pub. L. 87-554 eliminated provision for deposit in the revolving fund of amounts equal to the quarters allowances or appropriate allotments of military personnel to whom housing is assigned as public quarters and rental charges for leasing of housing to military and civilian personnel.

Subsec. (g). Pub. L. 87-554 repealed subsec. (g) creating the revolving fund, enumerating uses of the fund and requiring the deposit in the fund of specified quarters allowances or allotments, rental charges and savings realized in operation of housing.

Subsec. (h). Pub. L. 87-554 repealed subsec. (h) requiring the establishment of the revolving fund on the books of the Treasury Department, limiting appropriation authorization for revolving fund capital to $50,000,000 and permitting the transfer of certain funds to provide adequate capital for the fund.

1959—Subsec. (a). Pub. L. 86-372, § 702(a), authorized the acquisition of any housing situated adjacent to a military installation which was completed prior to July 1, 1952, certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 1713 of Title 12.

Subsec. (b). Pub. L. 86-372, § 702(b), substituted "any housing described in clause (1) or (2) of subsection (a) of this section" for "any housing constructed under the mortgage insurance provisions of sections 1748—1748h of Title 12 (as in effect prior to Aug. 11, 1955)."

Subsec. (c)(2). Pub. L. 86-372, § 703, required the amount of the deposit in any case where the sponsor or owner has not certified the cost of the project to be determined with a view toward accurately estimating the equity of the sponsor or owner.

Pub. L. 86-149 required the amount of the deposit to be not less than an amount equal to the actual cost of the housing as certified reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, provided for determination of amount of deposit in cases where cost has not been certified, and required payment of 4% interest where money has been withdrawn in excess of final award of just compensation.

1958—Subsec. (c). Pub. L. 85-685 inserted provisions authorizing the issue of just compensation to be determined by a commission of three qualified, disinterested persons to be appointed by the court, prescribing its powers, relating to its action and report, and requiring trial of all issues, other than just compensation, to be by the court.

1957—Subsec. (a). Pub. L. 85-104 substituted "representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition" for the words "for physical depreciation".

1956—Act Aug. 7, 1956, designated existing provisions as subsecs. (a), (c), and (d), and added subsecs. (b), and (e)—(h).

Act Aug. 3, 1956, limited the purchase price of housing to the Commissioner's estimate of the replacement cost of such housing and related property as of the date of final endorsement for mortgage insurance reduced by an appropriate allowance for depreciation, and limited the price of any project held by the Commissioner to the face value of the debentures, plus accrued interest, which the Commissioner issued in acquiring the project.

FEDERAL RULES OF CIVIL PROCEDURE

Masters, see rule 53, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1594d, 1594i, 1594j of this title.

§ 1594a-1. Department of Defense family housing management account.

(a) Establishment.

For the purpose of providing improved management and administration of funds appropriated or otherwise made available to the Department of Defense for family housing programs there is established on the books of the Treasury Department the Department of Defense family housing management account (hereinafter referred to as the "management account").

(b) Single account administration; transfer and uses of funds.

The management account shall be administered by the Secretary of Defense as a single account. Into such account there shall be transferred (1) the unexpended balance of the funds established pursuant to subsections (g) and (h) of section 404 of the Housing Amendments of 1955, and (2) appropriations hereafter made to the Department of Defense, for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, replacement, addition, expansion, extension, alteration, leasing, operation, or maintenance of family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 1715m(c) of Title 12, and (3) notwithstanding any other provision of law, for the purpose of debt service, proceeds of the handling and the disposal of family housing of the Department of Defense, including related land and improvements, whether handled or disposed of by the Department of Defense or any other Federal agency, but less those expenses payable pursuant to section 485(b) of Title 40, to remain available until expended.

(c) Amount of obligations against account to defray family housing costs.

Obligations against the management account may be made by the Secretary of Defense, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in the manner and to the extent authorized by law, the costs referred to in subsection (b) of this section. (Pub. L. 87-554, title V, § 501 (a)—(c), July 27, 1962, 76 Stat. 236; Pub. L. 90-110, title VI, § 606, Oct. 21, 1967, 81 Stat. 304; Pub. L. 91-142, title V, § 511, Dec. 5, 1969, 83 Stat. 312.)

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**§ 1594a-1. Department of
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5, 1969, 83 Stat. 312.)

REFERENCES IN TEXT

Subsections (g) and (h) of section 404 of the Housing Amendments of 1955, referred to in subsec. (b), were from act Aug. 11, 1955, ch. 783, title IV, 69 Stat. 652, as amended Aug. 7, 1956, ch. 1029, title V, § 512, 70 Stat. 1111, and were repealed by section 501(d) of Pub. L. 87-554.

CODIFICATION

This section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

AMENDMENTS

1969—Subsec. (b)(3). Pub. L. 91-142 provided for transfer into the management account proceeds of handling of family housing of the Department of Defense, whether handled by such Department or any other Federal Agency.

1967—Subsec. (b). Pub. L. 90-110 added clause (3).

§ 1594b. Maintenance and operation of housing; use of quarters; payment of principal, interest, and other obligations.

The Secretary of Defense or his designee is authorized to maintain and operate any housing acquired under this subchapter and assign quarters therein to military and civilian personnel and their dependents. Appropriations for quarters allowances or appropriate allotments, and rental charges to civilian personnel, may be utilized by the military department concerned for the payment of principal, interest, and other obligations, except those of maintenance and operation, of the mortgagor corporation with respect to such housing projects. Such payments shall not exceed an average of $90 a month per housing unit and total payments for all housing so acquired shall not exceed $21,000,000 per month: *Provided,* That, in case of the United States Coast Guard, total payments for all housing so acquired shall not exceed $90,000 per month. (Aug. 11, 1955, ch. 783, title IV, § 405, 69 Stat. 653; Aug. 7, 1956, ch. 1029, title V, § 508, 70 Stat. 1110.)

AMENDMENTS

1956—Act Aug. 7, 1956, substituted "$21,000,000" for "$9,000,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1594d of this title.

§ 1594c. Services of architects and engineers; use of appropriations; acquisition of sites.

Whenever the Secretary of Defense or his designee determines that it is desirable in order to effectuate the purposes of this subchapter, the Secretary is authorized, without regard to the civil service and classification laws, to procure, by negotiation or otherwise, the services of architects and engineers, or organizations thereof, under such arrangements as he deems desirable, but at an expense not in excess of that permissible under the schedule of fees allowed from time to time by the Secretary of Housing and Urban Development in connection with projects assisted under the United States Housing Act of 1937, as amended. Such services may include the development of plans, drawings and specifications for family housing under this subchapter and other services in connection therewith: *Provided,* That such plans, drawings, and specifications may include the use on any project to be constructed under this subchapter of alternate materials or alternate types of construction, including prefabrication, that provide substantially equal value and conform to standards established by the Secretary of Housing and Urban Development: *Provided further,* That such plans, drawings, and specifications, when developed pursuant to arrangements made under this section after August 7, 1956, shall follow the principle of modular measure, in order that the housing may be built by conventional construction, on-site fabrication, factory precutting, factory fabrication, or any combination of these construction methods: *Provided further,* That the Secretary of Defense may designate certain sites or parts thereof for family housing to be furnished from prefabricated houses or housing components. Such arrangements may include provision for advance or progress payments, for payment by third parties, for payment by the Government of any such compensation as it not paid for by third parties, and shall include provision for reimbursement by third parties to the Government of any compenation or other expenses paid by the Government pursuant to this section, and may include other provisions for compensation. Any public works appropriations now or hereafter available to the Departments of the Army, Navy, or Air Force or the Coast Guard may be obligated by the respective departments or the Coast Guard for these purposes. Reimbursements to the Government on account of payments made pursuant to this section shall be made to appropriations against which such payments were charged. The Secretary of Defense is further authorized to advance or pay to the Department of Housing and Urban Development its "Appraisal and Eligibility Statement" fees in connection with such family housing. The Secretary of Defense is further authorized to enter into arrangements by contract or otherwise for eventual acquisition by the Government, without cost to the Government of all right, title, and interest in sites on which housing is constructed pursuant to this subchapter and improvements thereon. (Aug. 11, 1955, ch. 783, title IV, § 406, 69 Stat. 653; Aug. 7, 1956, ch. 1029, title V, § 509, 70 Stat. 1110; May 25, 1967, Pub. L. 90-19, § 12(f), (h)(7), (8), 81 Stat. 24.)

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in the text, is classified to chapter 8 of this title.

The civil-service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

The classification laws, referred to in the text are classified to Title 5.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Public Housing Administration" and "Federal Housing Administration" in the first sentence and the first proviso and for "Federal Housing Administration" in the penultimate sentence and "Secretary of Defense" for "Secretary" in the third proviso and last two sentences, respectively.

1956—Act Aug. 7, 1956, inserted second proviso requiring plans, drawings, and specifications to follow the principle of modular measure, so the housing may be built by conventional construction, on-site fabrication, factory precutting, factory fabrication, or any combination of these construction methods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1594d of this title.

§ 1594d. Appropriations; use of quarters allowances.

(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 1594, 1594a, 1594b, and 1594c of this title.

(b) Any funds heretofore or hereafter authorized to be expended by any of the military departments or the Coast Guard for the payment of allowances for quarters for military personnel may be used for the purposes specified in subsection (a) of this section. (Aug. 11, 1955, ch. 783, title IV, § 407, 69 Stat. 653.)

§ 1594e. Definitions.

(a) Wherever the terms "Secretary of Defense" or "Secretary of the Army, Navy, or Air Force" appear in this subchapter or in title VIII of the National Housing Act, as amended by the Housing Amendments of 1955, they shall be deemed to mean the Secretary of Transportation in the case of the application of the provisions of this subchapter or of title VIII of the National Housing Act, as amended by the Housing Amendments of 1955, for the benefit of the United States Coast Guard.

(b) Wherever the term "armed services" appears in this subchapter it shall be deemed to include the United States Coast Guard. (Aug. 11, 1955, ch. 783, title IV, § 409, 69 Stat. 654; May 25, 1967, Pub. L. 90-19, § 12(g), 81 Stat. 24.)

REFERENCES IN TEXT

Title VIII of the National Housing Act, as amended by the Housing Amendments of 1955, referred to in subsec. (a), refers to title VIII of Act June 27, 1934, ch. 847 as amended by act Aug. 11, 1955, which is classified to section 1748 et seq. of Title 12, Banks and Banking.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19 struck out "or Secretary" following "Secretary of Defense".

TRANSFER OF FUNCTIONS

"Secretary of Transportation" was substituted for " Secretary of the Treasury" in subsec. (a) pursuant to Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which transferred all functions, powers, and duties of the Secretary of the Treasury and other offices and officers of the Department of the Treasury relating generally to the Coast Guard to the Secretary of Transportation. See section 1655(b)(1) of Title 49, Transportation.

§ 1594f. Net floor area limitations.

In the construction of housing under the authority of this subchapter and Title VIII of the National Housing Act, as amended, the maximum limitations on net floor area for each unit shall be the same as the net floor area limitations prescribed by law (at the time plans and specifications for such construction are begun) for public quarters built with appropriated funds under military construction authority. (Aug. 11, 1955, ch. 783, title IV, § 410, as added Aug. 7, 1956, ch. 1029, title V, § 510, 70 Stat. 1110, and amended July 12, 1957, Pub. L. 85-104, title, V, § 503, 71 Stat. 303.)

REFERENCES IN TEXT

Title VIII of the National Housing Act, as amended, referred to in the text, is title VIII of act June 27, 1934, ch. 847, classified to section 1748 et seq. of Title 12, Banks and Banking.

AMENDMENTS

1957—Pub. L. 85-104 substituted "limitations prescribed by law (at the time plans and specifications for such construction are begun) for public quarters built with appropriated funds under military construction authority" for the words "permanent limitations prescribed in the second, third, and fourth provisos of section 3 of the act of June 12, 1948 (62 Stat. 375), or section 3 of the act of June 16, 1948 (62 Stat. 459), other than the first, second, and third provisos thereof".

§ 1594g. Repealed. Pub. L. 85-241, title IV, § 406(b), Aug. 30, 1957, 71 Stat. 556, eff. July 1, 1958.

Section, act Aug. 3, 1956, ch. 939, title IV, § 419, 70 Stat. 1018, related to conditions precedent to entering into contracts for construction or acquisition of family housing units by or for the use of military or civilian personnel of any of the military services.

§ 1594h. Purchase of family housing for assignment as public quarters; space and cost limitations.

The Secretary of the Army is authorized to purchase out of appropriations available for military construction family housing including necessary land at, or near, military tactical installations for assignment as public quarters to military personnel and their dependents. Not more than 300 units of such housing may be purchased under this section. Space limitations per unit will be in accordance with subsections (a), (b), and (c) of section 4774 of Title 10, and cost limitations as now or hereafter established for military housing constructed with appropriated funds. (Pub. L. 85-241, title I, § 103, Aug. 30, 1957, 71 Stat. 534.)

CODIFICATION

This section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

§ 1594h-1. Improvement of family housing units; public quarters designation; cost limitations.

(a) The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions not otherwise authorized by law of family housing units at various locations under the jurisdiction of the Department of Defense which, on July 27, 1962, have not been designated as public quarters. Units so improved shall be designated public quarters.

(b) No family housing unit may be improved at a total cost of more than 50 per centum of the maximum cost of construction prescribed by this Act for an equivalent unit of new family housing. (Pub. L. 87-554, title V, § 503, July 27, 1962, 76 Stat. 239.)

REFERENCES IN TEXT

The Act, referred to in subsec. (b), is Pub. L. 87-554. Construction cost limitations are set out in notes under this section.

CODIFICATION

This section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

1965 CONSTRUCTION COST LIMITATIONS

Section 502 of Pub. L. 89-188, title V, Sept. 16, 1965, 79 Stat. 813, provided that:

"Authorizations for the construction of family housing provided in this Act shall be subject to the following limitations on costs, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures:

"(a) The cost per unit of family housing constructed in the United States (other than Hawaii and Alaska) and Puerto Rico shall not exceed—

"$24,000 for general officers or equivalent;

"$19,800 for colonels or equivalent;

"$17,600 for majors and/or lieutenant colonels or equivalent;

"$15,400 for all other commissioned or warrant officer personnel or equivalent, except that four-bedroom housing units authorized by sections 4774(g), 7574(e),

and 9774(g) of title 10, United States Code, may be constructed at a cost not to exceed $17,000;

"$13,200 for enlisted personnel, except that four-bedroom housing units authorized by sections 4774(f), 7574(d), and 9774(f) of title 10, United States Code, may be constructed at a cost not to exceed $15,000.

"(b) When family housing units are constructed in areas other than those listed in subsection (a), the average cost of all such units, in any project of fifty units or more, shall not exceed $32,000, and in no event shall the cost of any unit exceed $40,000.

"(c) The cost limitations provided in subsections (a) and (b) shall be applied to the five-foot line.

"(d) For all units constructed in the areas listed in subsection (a), exclusive of the project for the United States Military Academy at West Point, the average unit cost for each military department shall not exceed $17,500, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

"(e) No family housing unit in the areas listed in subsection (a) shall be constructed at a total cost exceeding $28,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

"(f) Units constructed at the United States Military Academy, West Point, shall not be subject to the limitations of subsections (a) through (e) of this section, but the average cost of such units shall not exceed $36,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities."

1963 Construction Cost Limitations

Section 502 of Pub. L. 88-174, title V, Nov. 7, 1963, 77 Stat. 325, provided that:

"Authorizations for the construction of family housing provided in this Act shall be subject to the following limitations on cost, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures:

"(a) The cost per unit of family housing constructed in the United States (other than Alaska), the Canal Zone, and Puerto Rico shall not exceed—

"$22,000 for generals or equivalent;

"$19,800 for colonels or equivalent;

"$17,600 for majors and/or lieutenant colonels or equivalent;

"$15,400 for all other commissioned or warrant officer personnel or equivalent;

"$13,200 for enlisted personel;

"(b) When family housing units are constructed in areas other than those listed in subsection (a), the average cost of all such units, in any project of 50 units or more, shall not exceed $32,000, and in no event shall the cost of any unit exceed $40,000.

"(c) The cost limitations provided in subsections (a) and (b) shall be applied to the five-foot line.

"(d) No project in excess of 50 units in the areas listed in subsection (a) shall be constructed at an average unit cost exceeding $17,500, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

"(e) No family housing unit in the areas listed in subsection (a) shall be constructed at a total cost exceeding $26,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities."

1962 Construction Cost Limitations

Section 506 of Pub. L. 87-554 provided that:

"Authorizations for the construction of family housing provided in this Act shall be subject to the following limitations:

"(a) the cost per family unit shall not exceed—

"$22,000 for generals or equivalent;

"$19,800 for colonels or equivalent;

"$17,600 for majors and/or lieutenant colonels or equivalent;

"$15,400 for all other commissioned or warrant officer personnel or equivalent;

"$13,200 for enlisted personnel;

except that when such units are constructed outside the continental United States or in Alaska, the average cost per unit of all such units shall not exceed $32,000, and in no event shall the individual cost exceed $40,000.

"The cost limitations provided in this subsection shall be applied to the five-foot line.

"(b) No project in excess of 50 units at a specific location, other than those constructed outside the continental United States or in Alaska, shall be constructed at an average unit cost exceeding $17,500, including the costs of land acquisition, site preparation, and installation of utilities.

"(c) No family housing unit, other than those constructed outside the continental United States or in Alaska, shall be constructed at a total cost exceeding $26,000, including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities. For the purposes of this section the cost of the family unit shall include ranges, refrigerators, shades, screens, and fixtures."

§ 1594i. Authorization of number of family housing units.

Notwithstanding the provisions of any other law, and effective July 1, 1958, no family housing units shall be contracted for or acquired at or in support of military installations or activities, and no certificates with respect to any family housing units shall be issued by the Secretary of Defense or his designee or by any of the military departments in connection with section 1748h-2 of Title 12, unless the actual number of units involved has been specifically authorized by an annual military construction authorization Act except (1) housing units acquired pursuant to the provisions of section 1594a of this title; (2) rental guarantee family housing authorized under section 302 of the Act of July 14, 1952 (66 Stat. 606, 622): *Provided,* That not more than five thousand units shall be contracted for under the authority of such section prior to June 30, 1964; and (3) housing units leased for terms of one year, whether renewable or not, or for terms of not more than five years pursuant to the provisions of section 2675 of Title 10. (Pub. L. 85-241, title IV, § 406(a) Aug. 30, 1957, 71 Stat. 556; Pub. L. 85-685, title V, § 512, Aug. 20, 1958, 72 Stat. 662; Pub. L. 86-149, title IV, § 408, Aug. 10, 1959, 73 Stat. 321; Pub. L. 86-500, title V, § 507(b), June 8, 1960, 74 Stat. 185; Pub. L. 87-70, title VI, § 611(b), June 30, 1961, 75 Stat. 180; Pub. L. 88-174, title V, § 510, Nov. 7, 1963, 77 Stat. 327.)

References in Text

Section 302 of the act of July 14, 1952, referred to in the text, is section 302 of act July 14, 1952, ch. 726, title III, 66 Stat. 622, which is not classified to this Code.

Codification

This section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

Amendments

1963—Pub. L. 88-174 inserted the prohibition against issuance of certificates with respect to any family housing units in connection with section 1748h-2 of Title 12.

1961—Pub. L. 87-70 eliminated provisions which related to certificates issued by the Secretary of Defense under section 1748h-2 of Title 12.

1960—Pub. L. 86-500 prohibited the issuance of certificates with respect to family housing units unless the actual number of units involved has been specifically authorized.

1959—Pub. L. 86-149 excepted rental guarantee family housing.

1958—Pub. L. 85–685 excepted housing units leased, utilizing available operation and maintenance appropriations, for terms of one year, whether renewable or not, or for terms of not more than five years pursuant to the provisions of section 171z–3 of title 5. Section 171z–3 was repealed and the substance thereof now appears in section 2675 of title 10.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3374 of this title.

§ 1594j. Inadequate quarters.

(a) Occupancy on rental basis without loss of basic allowance for quarters.

Notwithstanding the provisions of any other law, members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, inadequate quarters under the jurisdiction of any of the uniformed services, notwithstanding that such quarters may have been constructed or converted for assignment as public quarters. The net difference between the basic allowance for quarters and the fair rental value of such quarters shall be paid from otherwise available appropriations: *Provided,* That notwithstanding the fair rental value of such quarters, or of any other housing facilities under the jurisdiction of a department or agency of the United States, no rental charge for occupancy of family units designated as other than public quarters shall be made against the basic allowance for quarters of a member of a uniformed service in excess of 75 per centum of such allowance, except that in no event shall the net rental value charged to the member's basic allowance for quarters be less than the costs of maintaining and operating the housing.

(b) Administration.

The provisions of this section shall be administered under regulations approved by the President.

(c) Designation as rental housing.

The Secretaries of the Army, Navy, and Air Force for the respective military departments, the Secretary of Transportation for the Coast Guard when the Coast Guard is operating as a service in the Department of Transportation, the Secretary of Commerce for the Coast and Geodetic Survey, and the Secretary of Health, Education, and Welfare for the Public Health Service (hereafter referred to as the "Secretaries"), are each authorized, subject to standards established pursuant to subsection (b) of this section, to designate as rental housing such housing as he may determine to be inadequate as public quarters.

(d) Leasing of housing units.

The Secretaries are each further authorized, subject to standards established pursuant to subsection (b) of this section, to lease inadequate housing to personnel of any of the mentioned services for occupancy by them and their dependents. The housing facilities leased, as herein provided, shall not be required to have been constructed with funds derived from appropriations specifically made for the purpose of the construction of rental housing for personnel of the services mentioned.

(e) Alteration, improvement, or disposition of housing units.

All housing units determined pursuant to subsection (c) of this section to be inadequate shall, prior to July 1, 1962, either be altered or improved so as to qualify as public quarters, or be demolished or otherwise disposed of.

(f) Housing financed with mortgages insured under Title VIII of the National Housing Act.

This section shall have no application to any housing described in clause (1) or (2) of section 1594a(a) of this title.

(g) Continual surveillance and periodic surveys of quarters; exemption of quarters.

The Secretaries of Defense and Health, Education, and Welfare, in order to insure as far as possible that family housing under their jurisdiction is adequate as public quarters and fully utilized, shall maintain such continual surveillance and conduct such periodic surveys of such quarters as they shall deem necessary for this purpose. Where either Secretary or his designee determines, on the basis of such surveys, that it is not in the best interest of the United States to improve, demolish, or otherwise dispose of any quarters which have been determined inadequate under this section, he may exempt such quarters from the requirements of subsection (e) of this section: *Provided,* That any quarters so exempted must be improved, demolished, or otherwise disposed of not later than July 1, 1965: *And provided further,* That the Secretary of Defense, or his designee, may exempt from this requirement any housing at any particular installation as to which he determines that (1) the housing is safe, decent, and sanitary, so as to be suitable for occupancy; (2) the housing cannot be made adequate as public quarters with a reasonable expenditure of funds; (3) the rentals charged to, or the allowances forfeited by, the occupants are not less than the costs of maintaining and operating the housing; and (4) there is a continuing need which cannot appropriately be met by privately owned housing in the area. Any such housing so exempted in connection with depot-type installations, as to which the Secretary of Defense, or his designee, determines, subsequent to July 1, 1967, that indefinite retention may be necessary to satisfy unanticipated housing requirements resulting from future expanded activity at such installations, may be retained and utilized as necessary, notwithstanding that the foregoing criteria are no longer satisfied. (Pub. L. 85–241, title IV, § 407, Aug. 30, 1957, 71 Stat. 556; Pub. L. 85–685, title V, § 516, Aug. 20, 1958, 72 Stat. 664; Pub. L. 86–372, title VII, § 702(c), Sept. 23, 1959, 73 Stat. 683; Pub. L. 86–500, title V, § 508, June 8, 1960, 74 Stat. 186; Pub. L. 87–57, title VI, § 610, June 27, 1961, 75 Stat. 111; Pub. L. 88–174, title V, § 506, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89–568, title V, § 502, Sept. 12, 1966, 80 Stat. 753; Pub. L. 90–110, title VI, § 608, Oct. 21, 1967, 81 Stat. 305.)

CODIFICATION

Section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

AMENDMENTS

1967—Subsec. (g). Pub. L. 90–110 provided for retention and utilization of quarters exempted in connection with depot-type installations to satisfy housing requirements resulting from expanded activity at such installations.

1966—Subsec. (a). Pub. L. 89–568 added provision that no member of the uniformed services shall be charged more than 75 percent of his basic allowance for quarters to live in inadequate quarters under the jurisdiction of any of the uniformed services except that in no event shall the net rental value charged to the member's basic allowance for quarters be less than the cost of maintaining and operating the housing.

1963—Subsec. (g). Pub. L. 88–174 added proviso containing standards for exemption of quarters.

1961—Subsec. (e). Pub. L. 87–57 substituted "July 1, 1962" for "July 1, 1961."

Subsec. (g). Pub. L. 87–57 substituted "July 1, 1965" for "July 1, 1962."

1960—Subsec. (g). Pub. L. 86–500 added subsec. (g).

1959—Subsec. (f). Pub. L. 86–372 substituted "housing described in clause (1) or (2) of section 1594a(a) of this title" for "housing financed with mortgages insured under the provisions of Title VIII of the National Housing Act as in effect prior to the enactment of the Housing Amendments of 1955."

1958—Subsec. (e). Pub. L. 85–685 substituted "July 1, 1961" for "July 1, 1960".

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 35 F.R. 15627, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration, and all functions of the Survey, not already transferred by 1950 Reorg. Plan No. 5, were transferred to the Secretary of Commerce.

"Secretary of Transportation" was substituted for "Secretary of the Treasury" in subsec. (c) pursuant to Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which transferred all functions, powers, and duties of the Secretary of the Tresury and other offices and officers of the Department of the Treasury relating to the Coast Guard to the Secretary of Transportation. See section 1655(b)(1) of Title 49, Transportation.

DELEGATION OF FUNCTIONS

Functions of the President under subsection (b) of this section delegated to the Director of the Bureau of the Budget, see section 1(22) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

EXECUTIVE ORDER No. 10766

Ex. Ord. No. 10766, May 2, 1958, 23 F.R. 2981, formerly set out as a note under this section, which authorized delegation of authority of President to approve regulations to the Director of the Bureau of the Budget, was superseded by section 2(4) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

§ 1594k. Foreign countries; guarantee of rental return to builders or other sponsors; limitation on amount; period; unit limitation.

For the purpose of providing military family housing in foreign countries, the Secretary of Defense is authorized to enter into agreements guaranteeing the builders or other sponsors of such housing a rental return equivalent to a specified portion of the annual rental income which the builders or other sponsors would receive from the tenants if the housing were fully occupied: *Provided,* That the aggregate amount guaranteed under such agreements entered into during the fiscal years 1971 and 1972 shall not exceed such amount as may be applicable to five thousand units: *Provided further,* That no such agreement shall guarantee the payment of more than 97 per centum of the anticipated rentals, nor shall any guarantee extend for a period of more than ten years, nor shall the average guaranteed rental on any project exceed $185 per unit per month, including the cost of maintenance and operation. (Pub. L. 88–174, title V, § 507, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89–188, title V, § 505, Sept. 16, 1965, 79 Stat. 814; Pub. L. 90–110, title VI, § 605, Oct. 21, 1967, 81 Stat. 304; Pub. L. 90–408, title VI, § 607, July 21, 1968, 82 Stat. 388; Pub. L. 91–142, title V, § 508, Dec. 5, 1969, 83 Stat. 312; Pub. L. 91–511, title V, § 507, Oct. 26, 1970, 84 Stat. 1220.)

CODIFICATION

Section was not enacted as part of the Housing Amendments of 1955, act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended, which comprises this subchapter.

AMENDMENTS

1970—Pub. L. 91–511, in substituting "1971 and 1972" for "1970 and 1971", provided for guaranteed rental for fiscal year 1972.

1969—Pub. L. 91–142, in substituting "1970 and 1971" for "1969 and 1970", provided for guaranteed rental for fiscal year 1971.

1968—Pub. L. 90–408 substituted "1969 and 1970" for "1968 and 1969".

1967—Pub. L. 90–110 authorized guarantee of rental return to other sponsors and increased guaranteed rental limitation from $150 for fiscal years 1966 and 1967 to $185 for fiscal years 1968 and 1969.

1965—Pub. L. 89–188 substituted provision for guarantee of rental return to builders for agreements entered into during fiscal years 1966 and 1967 for former provision for such guarantee for fiscal years 1964 and 1965.

Chapter 10.—FEDERAL SECURITY AGENCY

§§ 1601 to 1603. Transferred or Omitted.

CODIFICATION

Sections 1601 and 1602 have been transferred to sections 3505 and 3507, respectively of this title.

Section 1603, acts July 13, 1943, ch. 221, title II, § 1, 57 Stat. 513; June 28, 1944, ch. 302, title II, § 1, 58 Stat. 566; July 3, 1945, ch. 263, title II, 59 Stat. 376; July 26, 1946, ch. 672, title II, § 201, 60 Stat. 697; July 8, 1947, ch. 210, title II, § 201, 61 Stat. 276, which authorized the Secretary of the Treasury to transfer to constituent organizations of the Federal Security Agency requested amounts from appropriations for traveling expenses and printing and binding, Federal Security Agency, and to retransfer to such appropriations, was not repeated in subsequent acts, and expired with the appropriation acts of which it was a part.

Chapter 11.—COMPENSATION FOR DISABILITY OR DEATH TO PERSONS EMPLOYED AT MILITARY, AIR, AND NAVAL BASES OUTSIDE THE UNITED STATES

Sec.
1651. Compensation authorized.
(a) Places of employment.
(b) Definitions.
(c) Liability as exclusive.
(d) Definition of contractor.
(e) Contracts within section; waiver of application of section.
(f) Liability to prisoners of war and protected persons.
1652. Computation of benefits; application to aliens and nonnationals.
1653. Compensation districts; judicial proceedings
1654. Persons excluded from benefits.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 50 App. section 2003.

§ 1651. Compensation authorized.

(a) Places of employment.

Except as herein modified, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended, shall apply in respect to the injury or death of any employee engaged in any employment—

(1) at any military, air, or naval base acquired after January 1, 1940, by the United States from any foreign government; or

(2) upon any lands occupied or used by the United States for military or naval purposes in any Territory or possession outside the continental United States (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone); or

(3) upon any public work in any Territory or possession outside the continental United States (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone), if such employee is engaged in employment at such place under the contract of a contractor (or any subcontractor or subordinate subcontractor with respect to the contract of such contractor) with the United States; but nothing in this paragraph shall be construed to apply to any employee of such a contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(4) under a contract entered into with the United States or any executive department, independent establishment, or agency thereof (including any corporate instrumentality of the United States), or any subcontract, or subordinate contract with respect to such contract, where such contract is to be performed outside the continental United States and at places not within the areas described in subparagraphs (1)—(3) of this subdivision, for the purpose of engaging in public work, and every such contract shall contain provisions requiring that the contractor (and subcontractor or subordinate contractor with respect to such contract) (1) shall, before commencing performance of such contract, provide for securing to or on behalf of employees engaged in such public work under such contract the payment of compensation and other benefits under the provisions of this chapter, and (2) shall maintain in full force and effect during the term of such contract, subcontract, or subordinate contract, or while employees are engaged in work performed thereunder, the said security for the payment of such compensation and benefits, but nothing in this paragraph shall be construed to apply to any employee of such contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(5) under a contract approved and financed by the United States or any executive department, independent establishment, or agency thereof (including any corporate instrumentality of the United States), or any subcontract or subordinate contract with respect to such contract, where such contract is to be performed outside the continental United States, under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States, determines a contract financed under a successor provision of any successor Act should be covered by this section), and not otherwise within the coverage of this section, and every such contract shall contain provisions requiring that the contractor (and subcontractor or subordinate contractor with respect to such contract) (A) shall, before commencing performance of such contract, provide for securing to or on behalf of employees engaged in work under such contract the payment of compensation and other benefits under the provisions of this chapter, and (B) shall maintain in full force and effect during the term of such contract, subcontract, or subordinate contract, or while employees are engaged in work performed thereunder, the said security for the payment of such compensation and benefits, but nothing in this paragraph shall be construed to apply to any employee of such contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(6) outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense.

irrespective of the place where the injury or death occurs, and shall include any injury or death occurring to any such employee during transportation to or from his place of employment, where the employer or the United States provides the transportation or the cost thereof.

(b) Definitions.

As used in this section—

(1) the term "public work" means any fixed improvement or any project, whether or not fixed, involving construction, alteration, removal or repair for the public use of the United States or its allies, including but not limited to projects or operations under service contracts and projects in connection with the national defense or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory

and ancillary work in connection therewith at the site or on the project;

(2) the term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(3) the term "war activities" includes activities directly relating to military operations.

(4) the term "continental United States" means the States and the District of Columbia.

(c) Liability as exclusive.

The liability of an employer, contractor (or any subcontractor or subordinate subcontractor with respect to the contract of such contractor) under this chapter shall be exclusive and in place of all other liability of such employer, contractor, subcontractor, or subordinate contractor to his employees (and their dependents) coming within the purview of this chapter, under the workmen's compensation law of any State, Territory, or other jurisdiction, irrespective of the place where the contract of hire of any such employee may have been made or entered into.

(d) Definition of contractor.

As used in this section, the term "contractor" means any individual, partnership, corporation, or association, and includes any trustee, receiver, assignee, successor, or personal representative thereof, and the rights, obligations, liability, and duties of the employer under such Longshoremen's and Harbor Workers' Compensation Act shall be applicable to such contractor.

(e) Contracts within section; waiver of application of section.

The liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in public work under subparagraphs (3) and (4), subdivision (a) of this section, and the conditions set forth therein, shall become applicable to contracts and subcontracts heretofore entered into but not completed at the time of the approval of this chapter, and the liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in performance of contracts, subcontracts, or subordinate contracts specified in subparagraph (5), subdivision (a) of this section, and the conditions set forth therein, shall hereafter be applicable to the remaining terms of such contracts, subcontracts, and subordinate contracts entered into prior to but not completed on the date of enactment of any successor Act to the Mutual Security Act of 1954, as amended, and contracting officers of the United States are authorized to make such modifications and amendments of existing contracts as may be necessary to bring such contracts into conformity with the provisions of this chapter. No right shall arise in any employee or his dependent under subparagraphs (3) and (4) of subdivision (a) of this section, prior to two months after the approval of this chapter. Upon the recommendation of the head of any department or other agency of the United States, the Secretary of Labor, in the exercise of his discretion, may waive the application of this section with respect to any contract, subcontract, or subordinate contract, work location under such contracts, or classification of employees. Upon recommendation of any employer referred to in paragraph (6) of subsection (a) of this section, the Secretary of Labor may waive the application of this section to any employee or class of employees of such employer, or to any place of employment of such an employee or class of employees.

(f) Liability to prisoners of war and protected persons.

The liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in public work under paragraphs (1), (2), (3), and (4) of subsection (a) of this section or in any work under paragraph (5) of subsection (a) of this section does not apply with respect to any person who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States. (Aug. 16, 1941, ch. 357, § 1, 55 Stat. 622; Dec. 2, 1942, ch. 668, title III, § 301, 56 Stat. 1035; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7871, 60 Stat. 1352; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271; June 30, 1953, ch. 176, § 4, 67 Stat. 135; June 30, 1958, Pub. L. 85-477, ch. V, § 502 (a), 72 Stat. 272; Aug. 8, 1958, Pub. L. 85-608, title II, § 201, 72 Stat. 537; June 25, 1959, Pub. L. 86-20, § 40, 73 Stat. 150; July 24, 1959, Pub. L. 86-108, ch. VII, § 701(a), 73 Stat. 257; Sept. 4, 1961, Pub. L. 87-195, pt. IV, § 701, 75 Stat. 463.)

REFERENCES IN TEXT

The Longshoremen's and Harbor Workers' Compensation Act, referred to in subsecs. (a) and (d), is classified to chapter 18 of Title 33, Navigation and Navigable Waters.

The Mutual Security Act of 1954, as amended, referred to in subsecs. (a)(5) and (e), was classified to chapter 24 of Title 22, Foreign Relations and Intercourse, and was repealed, with certain exceptions, by section 642(a) of Pub. L. 87-195. Parts I to III of Pub. L. 87-195 also enacted the International Development, Peace and Security Program, effective Sept. 4, 1961, which is classified to chapter 32 of Title 22.

CODIFICATION

Reference to Philippine Islands in paragraphs (2) and (3) in subsec. (a) was omitted as obsolete in view of Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352, recognizing the independence of the Philippines and withdrawing and surrendering all rights of possession, supervision, jurisdiction, control, or sovereignty now existing and exercised by the United States in and over the territory and people of the Philippines. See note set out under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1961—Subsec. (a)(5). Pub. L. 87-195, § 701(1), extended coverage in those cases where the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States, determines a contract financed under a successor provision of any successor act to the Mutual Security Act of 1954 should be covered by this section.

Subsec. (e). Pub. L. 87-195, § 701(2), substituted "but not completed on the date of enactment of any successor act to the Mutual Security Act of 1954, as amended" for "June 30, 1958, but not completed on July 24, 1959."

1959—Subsec. (a)(2). Pub. L. 86-70, § 40(a), eliminated "Alaska;" preceding "the United States Naval Operating Base".

Subsec. (a)(3). Pub. L. 86-70, § 40(a), eliminated "Alaska;" preceding "the United States Naval Operating Base."

Subsec. (a)(6). Pub. L. 86-70, § 40(b), eliminated words "or in Alaska or the Canal Zone" following "continental United States."

Subsec. (b)(4). Pub. L. 86-70, § 40(c), added subsec. (b)(4).

Subsec. (e). Pub. L. 86-108 provided that the liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in performance of contracts, subcontracts, or subordinate contracts specified in subsec. (a)(5) of this section, and the conditions set forth therein, shall be applicable to the remaining terms of such contracts, subcontracts, and subordinate contracts entered into prior to June 30, 1958, but not completed on July 24, 1959.

1958—Subsec. (a)(5). Pub. L. 85-477, § 502(a)(1) added subsec. (a)(5).

Subsec. (a)(6). Pub. L. 85-608, § 201(a) added subsec. (a)(6).

Subsec. (b). Pub. L. 85-608, § 201(b), inserted "whether or not fixed," following "any project" and substituted "projects or operations under service contracts and projects in connection with the national defense or with war activities" for "projects in connection with the war effort" in the definition of "public work", and added the definitions of "allies" and "war activities".

Subsec. (e). Pub. L. 85-608, § 201(c), substituted "may waive the application of this section with respect to any contract" for "may waive the application of the provisions of subparagraphs (3), (4), or (5) of subdivision (a) of this section, with respect to any contract", and inserted provisions authorizing the Secretary to waive the application of this section to any employee or class of employees of an employer referred to in paragraph (6) of subsection (a) of this section upon recommendation of the employer.

Subsec. (e). Pub. L. 85-477, § 502(a)(2), substituted "provisions of subparagraphs (3), (4), or (5)" for "provisions of subparagraphs (3) or (4)".

Subsec. (f). Pub. L. 85-602, § 201(d), substituted provisions making liability of a contractor, subcontractor, or subordinate contractor inapplicable with respect to persons who are prisoners of war or protected persons and who are detained or utilized by the United States for provisions which made liability inapplicable with respect to employees not citizens of the United States who incurred an injury or death resulting in death subsequent to June 30, 1953.

Subsec. (f). Pub. L. 85-602, § 201(d), substituted pro- in any work under subparagraph (5) of subsection (a) of this section" preceding "shall not apply".

1953—Subsec. (f). Act June 30, 1953 added subsec. (f).

1942—Act Dec. 2, 1942, amended section generally. Said section formerly read as follows: "Except as herein modified, the provisions of sections 901—921, 922—950 of Title 33, as amended, and as the same may be amended hereafter, shall apply in respect to the injury or death of any employee engaged in any employment at any military, air, or naval base acquired after January 1, 1940, by the United States from any foreign government or any lands occupied or used by the United States for military or naval purposes in any Territory or possession outside the continental United States, including Alaska, Guantanamo, and the Philippine Islands, but excluding the Canal Zone, irrespective of the place where the injury or death occurs."

EFFECTIVE DATE OF 1959 AMENDMENT

Section 47(g) of Pub. L. 86-70 provided that: "The amendments in sections 40 and 42 [to this section and sections 1701, 1704 and 1711 of this title] shall take effect when enacted [June 25, 1959]: *Provided, however,* That with respect to injuries or deaths occurring on or after January 3, 1959, and prior to the effective date of these amendments, claims filed by employees engaged in the State of Alaska in any of the employments covered by the Defense Base Act [this chapter] (and their dependents) may be adjudicated under the Workmen's Compensation Act of Alaska instead of the Defense Base Act."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 402 of Pub. L. 85-608 provided that: "The effective date of this Act [amending this section and sections 1701, 1702, 1704, 1711 and 1716 of this title, and former sections 751 and 790 of Title 5, Executive Departments and Government Officers and Employees now section 1 of Title 1, General Provisions and sections 7901, 8101, 8102 of Title 5, Government Organization and Employees, repealing section 801 of Title 5, and enacting notes set out under this section and section 1701 of this title] is June 30, 1958. Persons are entitled to the benefits of this Act notwithstanding the fact that an injury, disability, or death occurred after June 30, 1958, and before the date of enactment of this Act [August 8, 1958]."

SHORT TITLE

Section 5 of act Aug. 16, 1941, as added by Pub. L. 85-608, § 202, provided that act Aug. 16, 1941, which is classified to this chapter, should be popularly known as the "Defense Base Act".

REPEALS

Section 701 of Pub. L. 87-195, which amended this section, was repealed by section 401 of Pub. L. 87-565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 701 affected this section.

TRANSFER OF FUNCTIONS

In text of subsec. (e) of this section, "Secretary of Labor" was substituted for "Federal Security Administrator" by section 1 of 1950 Reorg. Plan No. 19 eff. May 24, 1950, 15 F.R. 3178, 64 Stat 1271, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

United States Employees' Compensation Commission, formerly referred to in subsec. (e), was abolished and its functions transferred to the Federal Security Administrator by section 3 of 1946 Reorg. Plan No. 2, eff. July 16, 1946, 11 F.R. 7873 60 Stat. 1095, set out in the Appendix to Title 5, Government Organization and Employees.

AIR FORCE

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force and Department of the Air Force from the Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(74)], July 22, 1949.

CROSS REFERENCES

"Allies" and "war effort" as used in subsec. (b) defined, see section 1711 (d) and (e) of this title.

Compensation for injury, death, or detention of employees of contractors with United States outside of the United States, see section 1701 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1704 of this title.

§ 1652. Computation of benefits; application to aliens and nonnationals.

(a) The minimum limit on weekly compensation for disability, established by section 906 (b) of Title 33, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 909 (e) of Title 33, shall not apply in computing compensation and death benefits under this chapter.

(b) Compensation for permanent total or permanent partial disability under section 908 (c) (21) of Title 33, or for death under this chapter to aliens and nonnationals of the United States not residents of the United States or Canada shall be in the same amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury, and except that the Secretary of Labor may, at his option or upon the application of the insurance carrier shall, commute all future installments of compensa-

tion to be paid to such aliens or nonnationals of the United States by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary. (Aug. 16, 1941, ch. 357, § 2, 55 Stat. 623; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271.)

TRANSFER OF FUNCTIONS

In text of subsec. (b), "Secretary of Labor" was substituted for "Federal Security Administrator", and "Secretary" was substituted for "Administrator", by section 1 of 1950 Reorg. Plan No. 19, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

United States Employees' Compensation Commission, formerly referred to in subsec. (b), was abolished and its functions transferred to the Federal Security Administrator by section 3 of 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1704 of this title.

§ 1653. Compensation districts; judicial proceedings.

(a) The Secretary of Labor is authorized to extend compensation districts established under the Longshoremen's and Harbor Workers' Compensation Act, or to establish new compensation districts, to include any area to which this chapter applies; and to assign to each such district one or more deputy commissioners, as the Secretary may deem necessary.

(b) Judicial proceedings provided under sections 918 and 921 of Title 33 in respect to a compensation order made pursuant to this chapter shall be instituted in the United States district court of the judicial district wherein is located the office of the deputy commissioner whose compensation order is involved if his office is located in a judicial district, and if not so located, such judicial proceedings shall be instituted in the judicial district nearest the base at which the injury or death occurs. (Aug. 16, 1941, ch. 357, § 3, 55 Stat. 623; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271.)

REFERENCES IN TEXT

The Longshoremen's and Harbor Workers' Compensation Act, referred to in subsec. (a), is classified to chapter 18 of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

In text of subsec. (a), "Secretary of Labor" was substituted for "Federal Security Administrator", and "Secretary" was substituted for "Administrator", by section 1 of 1950 Reorg. Plan No. 19, which was repealed by Pub. L. 89-554 § 8(a) Sept. 6, 1966, 80 Stat. 662.

United States Employees' Compensation Commission, formerly referred to in subsec (a), was abolished and its functions transferred to the Federal Security Administrator by section 3 of 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Establishment of compensation districts under Longshoremen's and Harbor Workers' Compensation Act, see section 939(b) of Title 33, Navigation and Navigable Waters.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1704 of this title.

§ 1654. Persons excluded from benefits.

This chapter shall not apply in respect to the injury or death of (1) an employee subject to the provisions of the Federal Employees' Compensation Act; (2) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, or profession of the employer; and (3) a master or member of a crew of any vessel. (Aug. 16, 1941, ch. 357, § 4, 55 Stat. 623.)

REFERENCES IN TEXT

The Federal Employees' Compensation Act, referred to in the text, is classified to chapter 81 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1704 of this title.

Chapter 12.—COMPENSATION FOR INJURY, DEATH, OR DETENTION OF EMPLOYEES OF CONTRACTORS WITH THE UNITED STATES OUTSIDE THE UNITED STATES.

SUBCHAPTER I.—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR

Sec.
1701. Injury or death; detention; limitation of benefits; exclusion.
1702. Application of Longshoremen's and Harbor Workers Compensation Act.
1703. Definition.
1704. Reimbursement.
1705. Receipt of workmen's compensation benefits.
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SUBCHAPTER II.—MISCELLANEOUS PROVISIONS

1711. Definitions.
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1717. Assignment of benefits; execution, levy, etc., against benefits.

REPEALS

Section 6 of act June 30, 1953, ch. 176, 67 Stat. 135, repealed section 1 (a) (13) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, which, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided for the continuation of this chapter until July 1, 1953.

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 50 App. sections 1291, 2003.

SUBCHAPTER I.—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1712, 1713, 1714, 1715, 1717 of this title.

§ 1701. Injury or death; detention; limitation of benefits; exclusion.

(a) In case of injury or death resulting from injury—

(1) to any person employed by a contractor with the United States, if such person in an employee specified in section 1651 to 1654 of this title,

and no compensation is payable with respect to such injury or death under said sections; or

(2) to any person engaged by the United States under a contract for his personal services outside the continental United States; or

(3) to any person employed outside the continental United States as a civilian employee paid from nonappropriated funds administered by the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Store Ashore, Navy exchanges, Marine Corps exchanges, officers' and noncommissioned officers' open messes, enlisted men's clubs, service clubs, special service activities, or any other instrumentality of the United States under the jurisdiction of the Department of Defense and conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents; or

(4) to any person who is an employee specified in section 1651(a)(5) of this title, if no compensation is payable with respect to such injury or death under sections 1651 to 1654 of this title or to any person engaged under a contract for his personal services outside the United States approved and financed by the United States under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States Government, determines a contract financed under a successor provision of any successor Act should be covered by this section): *Provided,* That in cases where the United States is not a formal party to contracts approved and financed under the Mutual Security Act of 1954, as amended, the Secretary, upon the recommendation of the head of any department or agency of the United States, may, in the exercise of his discretion, waive the application of the provisions of this subparagraph with respect to any such contracts, subcontracts, or subordinate contracts, work location under such contracts, subcontracts, or subordinate contracts, or classification of employees; or

(5) to any person employed or otherwise engaged for personal services outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense,

and such injury proximately results from a war-risk hazard, whether or not such person then actually was engaged in the course of his employment, the provisions of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, and as modified by this chapter, shall apply with respect thereto in the same manner and to the same extent as if the person so employed were a civil employee of the United States and were injured while in the performance of his duty, and any compensation found to be due shall be paid from the compensation fund established pursuant to section 35 of said Act of September 7, 1916, as amended. This subsection shall not be construed to include any person who would otherwise come within the purview of such Act of September 7, 1916, as amended.

(b) (1) Any person specified in subsection (a) of this section who—

(A) is found to be missing from his place of employment, whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person, or

(B) is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, or

(C) is not returned to his home or to the place where he was employed by reason of the failure of the United States or its contractor to furnish transportation,

until such time as he is returned to his home, to the place of his employment, or is able to be returned to the jurisdiction of the United States, shall, under such regulations as the Secretary may prescribe, be regarded solely for the purposes of this subsection as totally disabled, and the same benefits as are provided for such disability under this subchapter shall be credited to his account and be payable to him for the period of such absence or until his death is in fact established or can be legally presumed to have occurred: *Provided,* That if such person has dependents residing in the United States or its Territories or possessions (including the United States Naval Operating Base, Guantanamo Bay, Cuba, the Canal Zone, and the Philippine Islands), the Secretary during the period of such absence may disburse a part of such compensation, accruing for such total disability, to such dependents, which shall be equal to the monthly benefits otherwise payable for death under this subchapter, and the balance of such compensation for total disability shall accrue and be payable to such person upon his return from such absence. Any payment made pursuant to this subsection shall not in any case be included in computing the maximum aggregate or total compensation payable for disability or death, as provided in section 1702 (a) of this title: *Provided further,* That no such payment to such person or his dependent, on account of such absence, shall be made during any period such person or dependent, respectively, has received, or may be entitled to receive, any other payment from the United States, either directly or indirectly, because of such absence, unless such person or dependent refunds or renounces such other benefit or payment for the period claimed.

Benefits found to be due under this subsection shall be paid from the compensation fund established pursuant to section 35 of such Act of September 7, 1916, as amended: *Provided,* That the determination of dependents, dependency, and amounts of payments to dependents shall be made in the manner specified in such Act: *Provided further,* That claim for such detention benefits shall be filed in accordance with and subject to the limitation provisions of such Act, as modified by section 1706 (c) of this title: *And provided further,* That except in cases of fraud or willful misrepresentation, the Secretary may waive recovery of money erroneously paid under this subdivision whenever he finds that such

recovery would be impracticable or would cause hardship to the beneficiary affected: *And provided further,* That where such a person is found to be missing from his place of employment whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person or is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, the amount of benefits to be credited to the account of such person under this subsection, and for the purposes of this subsection only, shall be 100 per centum of the average weekly wages of such person, except that in computing such benefits such average weekly wages (a) shall not exceed the average weekly wages paid to civilian employees of the United States in the same or most similar occupation in the area nearest to the place of employment where such person was last employed, and (b) shall not exceed the average weekly wages of such absent person at the time such absence began; and 70 per centum of such average weekly wage so determined shall be disbursed to the dependent or dependents of such person, irrespective of the limitations of section 909 of Title 33, but should there be more than one such dependent, the distribution of such 70 per centum shall be proportionate to the percentages allowed for dependents by section 909 of Title 33, and if such manner of disbursement in any case would result in injustice or excessive allowance for a dependent, the Secretary may, in his discretion, modify such percentage or apportionment to meet the requirements of the case; and in such cases benefits for detention shall accrue from January 1, 1942, unless the beginning of absence occurred upon a later date in which event benefits shall accrue from such later date, and for the period of such absence shall be 100 per centum of the average weekly wages, determined as herein provided: *And provided further,* That compensation for disability under this subchapter (except under allowance for scheduled losses of members or functions of the body, within the purview of section 1702 (a) of this title) shall not be paid in any case in respect to any period of time during which benefits for detention may accrue under this subchapter in the same case, and should a person entitled to benefits for detention also be entitled to workmen's compensation or similar benefits under any other law, agreement, or plan (except allowances for scheduled losses of members or functions of the body), where such other benefits are paid or to be paid directly or indirectly by the United States, the amount thereof accruing as to the period of absence shall be taken into account and the benefits credited to the account of the detained person reduced accordingly: *And provided further,* That where through mistake of fact, absence of proof of death, or error through lack of adequate information or otherwise, payments as for detention have in any case been erroneously made or credited, any resulting overpayment of detention benefits (the recovery of which is not waived as otherwise provided for in this section) shall be recouped by the Secretary in such manner as he shall determine from any unpaid accruals to the account of the detained person, and if such accruals are insufficient for such purpose, then from any allowance of compensation for injury or death in the same case (whether under this subchapter or under any other law, agreement, or plan, if the United States pays, or is obligated to pay, such benefits, directly or indirectly), but only to the extent of the amount of such compensation benefits payable for the particular period of such overpayment, and in cases of erroneous payments of compensation for injury or death, made through mistake of fact, whether under this subchapter or under any other law, agreement, or plan (if the United States is obligated to pay such compensation, directly or indirectly), the Secretary is authorized to recoup from any unpaid benefits for detention, the amount of any overpayment thus arising; and any amounts recovered under this section shall be covered into such compensation fund, and for the foregoing purposes the Secretary shall have a right of lien, intervention, and recovery in any claim or proceeding for compensation.

(2) Upon application by such person, or someone on his behalf, the Secretary may, under such regulations as he may prescribe, furnish transportation or the cost thereof (including reimbursement) to any such person from the point where his release from custody by a hostile force or person is effected, to his some, the place of his employment, or other place within the jurisdiction of the United States; but no transportation, or the cost thereof, shall be furnished under this paragraph where such person is furnished such transportation, or the cost thereof, under any agreement with his employer or under any other provision of law.

(3) In the case of death of any such person, if his death occurred away from his home, the body of such person shall, in the discretion of the Secretary, and if so desired by his next of kin, near relative, or legal representative, be embalmed and transported in a hermetically sealed casket or other appropriate container to the home of such person or to such other place as may be designated by such next of kin, near relative, or legal representative. No expense shall be incurred under this paragraph by the Secretary in any case where death takes place after repatriation, unless such death proximately results from a war-risk hazard.

(4) Such benefits for detention, transportation expenses of repatriated persons, and expenses of embalming, providing sealed or other appropriate container, and transportation of the body, and attendants (if required), as approved by the Secretary, shall be paid out of the compensation fund established under section 35 of such Act of September 7, 1916, as amended.

(c) Compensation for permanent total or permanent partial disability or for death payable under this section to persons who are not citizens of the United States and who are not residents of the United States or Canada, shall be in the same amount as provided for residents; except that dependents in any foreign country shall be limited to surviving wife or husband and child or children, or if there be no surviving wife or husband or child or children, to surviving father or mother whom such person has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury; and except that the Secretary, at

his option, may commute all future installments of compensation to be paid to such persons by paying to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(d) The provisions of this section shall not apply in the case of any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States. (Dec. 2, 1942, ch. 668, title I, § 101, 56 Stat. 1028; Dec. 23, 1943, ch. 380, title I, 57 Stat. 626; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 7, 1946, ch. 805, § 1, 60 Stat. 899; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271; June 30, 1953, ch. 176, § 3, 67 Stat. 135; June 30, 1958, Pub. L. 85-477, ch. V, § 502 (g), 72 Stat. 273; Aug. 8, 1958, Pub. L. 85-608, title I, §§ 101, 104, title IV, § 401, 72 Stat. 536, 537, 539; June 25, 1959, Pub. L. 86-70, § 42(a), 73 Stat. 151; Sept. 4, 1961, Pub. L. 87-195, pt. IV, § 702, 75 Stat. 463.)

References in Text

Reference in subsec. (b) (1) to Philippine Islands, see note under section 1651 of this title.

The Mutual Security Act of 1954, as amended, referred to in subsec. (a)(4), was classified to chapter 24 of Title 22, Foreign Relations and Intercourse, and was repealed, with certain exceptions, by section 642(a) of Pub. L. 87-195. Parts I to III of Pub. L. 87-195 also enacted the International Development, Peace and Security Program, effective Sept. 4, 1961, which is classified to chapter 32 of title 22.

Act Sept. 7, 1916, as amended, referred to in concluding text of subsec. (a), section 35 of Act Sept. 7, 1916, as amended, referred to in concluding text of subsec. (a) and in subsec. (b) (1), (4), such Act of Sept. 7, 1916, as amended, referred to in concluding text of subsec. (a), and such Act, referred to in subsec. (b) (1), means the Federal Employees' Compensation Act. Such Act was repealed by section 8(a) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 632, section 1 of which enacted as a revision Title 5, Government Organization and Employees, and as chapter 81 thereof provisions for compensation for work injuries. Section 35 is incorporated in section 8147 of Title 5.

Amendments

1961—Subsec. (a)(4). Pub. L. 87-195 extended coverage in those cases where the Secretary of Labor, upon the recommendation of the head of any department or other agency of the U.S. Government, determines a contract financed under a successor provision of any successor act to the Mutual Security Act of 1954 should be covered by this section.

1959—Subsec. (a). Pub. L. 86-70 eliminated words "or in Alaska or the Canal Zone" following "continental United States" in pars. (2), (3) and (5).

1958—Subsec. (a)(2). Pub. L. 85-608, § 101(a), substituted "outside the continental United States or in Alaska or the Canal Zone" for "outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands".

Subsec. (a)(3). Pub. L. 85-608, § 101(b), substituted provisions relating to injuries to civilian employees outside the continental United States or in Alaska or the Canal Zone paid from nonappropriated funds and who are employed in connection with activities conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents for provisions which related to injuries to persons employed as civilian employees of post exchanges or shipservice stores outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands.

Subsec. (a)(4). Pub. L. 85-477 added subsec (a)(4).

Subsec. (a)(5). Pub. L. 85-608, § 101(c) added subsec. (a)(5).

Subsec. (b). Pub. L. 85-608, § 104, substituted "a hostile force or person" for "an enemy" in four instances and for "the enemy" in one instance.

Subsec. (c). Pub. L. 85-608, § 401, reenacted subsec. (c) and also repealed section 2 of act June 30, 1953, which had previously repealed subsec. (c).

Subsec. (d). Pub. L. 85-608, § 101(d), substituted provisions making section inapplicable to persons who are prisoners of war or protected persons and who are detained or utilized by the United States for provisions which made section inapplicable to persons who are not citizens of the United States and who suffered an injury, disability, death, or detention by the enemy subsequent to June 30, 1953.

1953—Subsec. (c). Act June 30, 1952, § 2, repealed subsec. (c) which provided for amount of compensation payable to noncitizens and nonresidents for permanent total or permanent partial disability or death, limited eligible dependents and permitted Secretary to commute future installments of compensation.

Subsec. (d). Act June 30, 1953, § 3, added clause (3).

1946—Act Aug. 7, 1946 made the benefits payable for detention uniform from the date of capture rather than at a reduced rate for 2 years as was the case formerly, prevented dual payments without impairing compensation rights for disability which continues after repatriation, and provided for adjustments of overpayments made under a mistake of facts.

1943—Subsec. (b)(1). Act Dec. 23, 1943, inserted the fourth proviso in the second paragraph thereof.

Effective Date of 1959 Amendment

Amendment of section by Pub. L. 86-70 effective June 25, 1959, see section 47(g) of Pub. L. 86-70, set out as a note under section 1651 of this title.

Effective Date of 1958 Amendment

Amendment of section by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as a note under section 1651 of this title.

Effective Date of 1943 Amendment

Act Dec. 23, 1943, provided that: "The amendment * * * [to subsec. (b) (1)] shall become effective the first day of the month next following the approval of this Act. [December 23, 1943]".

Effective Date

Section 107 of act Dec. 2, 1942, provided: "This title [sections 1701—1706 of this title] shall take effect as of December 7, 1941".

Retroactive Effect of 1946 Amendment; Review of Cases

Section 2 of act Aug. 7, 1946, provided for application of section 1 of act Aug. 7, 1946, amending this section, in all cases coming within the purview of subsec. (b) of this section, retrospectively to Jan. 1, 1942; and for review by the United States Employes' Compensation Commission of any case affected by such provisions, to make the adjustment of benefits which they require, and to make payments where the detained person has died since adjudication, to his legal representative.

Short Title

Section 208 of act Dec. 2, 1942, as added by Pub. L. 85-608, § 105, provided that titles I and II of act Dec. 2, 1942, which are classified to subchapter I and II of this chapter, should be popularly known as the "War Hazards Compensation Act".

Repeals

Section 702 of Pub. L. 87-195, which amended this section, was repealed by section 401 of Pub. L. 87-565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except in so far as section 702 affected this section.

Section 6 of act June 30, 1953, repealed section 1 (a) (13) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 331, which defined terms "enemy", "allies". "national war effort", and "war effort".

TRANSFER OF FUNCTIONS

In text of this section, "Secretary", referring to the Secretary of Labor, was substituted for "Administrator" by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

"Administrator" was substituted for "Commission", and "he" and "his" were substituted for "it" and "its", respectively by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

INCREASE IN COMPENSATION FOR INJURIES AND DEATH FROM INJURIES SUSTAINED BEFORE JULY 1, 1946

Pub.L. 87–380, Oct. 4, 1961, 75 Stat. 809, increased the monthly disability and death compensation payable pursuant to subsec. (a) of this section with respect to injuries or deaths resulting from injury sustained prior to July 1, 1946, by 15 per centum, effective only with respect to disability and death compensation payable for periods commencing on and after Oct. 4, 1961.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1702, 1705 of this title; title 50 App. sections 2003, 2004.

§ 1702. Application of Longshoremen's and Harbor Workers' Compensation Act.

(a) In the administration of the provisions of Act of September 7, 1916, as amended, with respect to cases coming within the purview of section 1701 of this title, the scale of compensation benefits and the provisions for determining the amount of compensation and the payment thereof as provided in sections 908 and 909 of Title 33, so far as the provisions of said sections can be applied under the terms and conditions set forth therein shall be payable in lieu of the benefits, except medical benefits, provided under Act of September 7, 1916, as amended: *Provided,* That the total compensation payable under this subchapter for injury or death shall in no event exceed the limitations upon compensation as fixed in section 914 (m) of Title 33 as such section may from time to time be amended except that the total compensation shall not be less than that provided for in the original enactment of this chapter.

(b) For the purpose of computing compensation with respect to cases coming within the purview of section 1701 of this title, the provisions of sections 906 and 910 of Title 33 shall be applicable: *Provided,* That the minimum limit on weekly compensation for disability, established by section 906 (b) of Title 33, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 909 (e) of Title 33, shall not apply in computing compensation under this subchapter. (Dec. 2, 1942, ch. 668, title I, § 102, 56 Stat. 1031; July 3, 1948, ch. 826, § 4(c), 62 Stat. 1242; Aug. 8, 1958, Pub. L. 85–608, title I, § 102, 72 Stat. 536.)

REFERENCES IN TEXT

Longshoremen's and Harbor Workers' Compensation Act, referred to in the catchline, is classified to chapter 18 of Title 33, Navigation and Navigable Waters.

Act Sept. 7, 1916, as amended, referred to in the text, means the Federal Employees' Compensation Act. Such Act was repealed by section 8(a) of Pub. L. 89–544, Sept. 6, 1966, 80 Stat. 632, section 1 of which enacted as a revision Title 5, Government Organization and Employees, and as chapter 81 thereof provisions for compensation for work injuries.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–608 omitted proviso that required any amendment to the Longshoremen's and Harbor Workers' Compensation Act which increased the amount of benefits payable for injury or death to be applied in the administration of this section as if the amendment had been in effect at the time of the particular injury or death.

1948—Subsec. (a). Act July 3, 1948 added all text in proviso beginning "as fixed in section 914(m) of Title 33".

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note under section 1651 of this title.

EFFECTIVE DATE

Section effective Dec. 7, 1941, see note under section 1701 of this title.

BENEFITS ADJUDICATED PRIOR TO AUGUST 8, 1958

Section 102 of Pub. L. 85–608 provided in part that the amendment to subsec. (a) of this section by Pub. L. 85–608 shall not affect benefits adjudicated thereunder prior to August 8, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

§ 1703. Definition.

As used in this subchapter, the term "contractor with the United States" includes any subcontractor or subordinate subcontractor with respect to the contract of such contractor. (Dec. 2, 1942, ch. 668, title I, § 103, 56 Stat. 1031.)

EFFECTIVE DATE

Section effective Dec. 7, 1941, see note under section 1701 of this title.

§ 1704. Reimbursement.

(a) Where any employer or his insurance carrier or compensation fund pays or is required to pay benefits—

(1) to any person or fund on account of injury or death of any person coming within the purview of this subchapter or sections 1651 to 1654 of this title, if such injury or death arose from a war-risk hazard, which are payable under any workmen's compensation law of the United States or of any State, Territory, or possession of the United States, or other jurisdiction; or

(2) to any person by reason of any agreement outstanding on December 2, 1942 made in accordance with a contract between the United States and any contractor therewith to pay benefits with respect to the death of any employee of such contractor occurring under circumstances not entitling such person to benefits under any workmen's compensation law or to pay benefits with respect to the failure of the United States or its contractor to furnish transportation upon the completion of the employment of any employee of such contractor to his home or to the place where he was employed; or

(3) to any person by reason of an agreement approved or authorized by the United States under which a contractor with the United States has agreed to pay workmen's compensation benefits or benefits in the nature of workmen's compensation benefits to an injured employee or his dependents on account of detention by a hostile force or person or on account of injury or death arising from a war-risk hazard;

such employer, carrier, or fund shall be entitled to be reimbursed for all benefits so paid or payable, including funeral and burial expenses, medical, hospital, or other similar costs for treatment and care;

and reasonable and necessary claims expense in connection therewith. Claim for such reimbursement shall be filed with the Secretary under regulations promulgated by him, and such claims, or such part thereof as may be allowed by the Secretary, shall be paid from the compensation fund established under section 35 of Act of September 7, 1916, as amended. The Secretary may, under such regulations as he shall prescribe, pay such benefits, as they accrue and in lieu of reimbursement, directly to any person entitled thereto, and the insolvency of such employer, insurance carrier, or compensation fund shall not affect the right of the beneficiaries of such benefits to receive the compensation directly from the said compensation fund established under section 35 of Act of September 7, 1916, as amended. The Secretary may also, under such regulations as he shall prescribe, use any private facilities, or such Government facilities as may be available, for the treatment or care of any person entitled thereto.

(b) No reimbursement shall be made under this subchapter in any case in which the Secretary finds that the benefits paid or payable were on account of injury, detention, or death which arose from a war-risk hazard for which a premium (which included an additional charge or loading for such hazard) was charged.

(c) The provisions of this section shall not apply with respect to benefits on account of any injury or death occurring within any State. (Dec. 2, 1942, ch. 668, title I, § 104, 56 Stat. 1031; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 8, 1958, Pub. L. 85–608, title I, § 104, 72 Stat. 537; June 25, 1959, Pub. L. 86–70, § 42(b), 73 Stat. 151.)

REFERENCES IN TEXT

Section 35 of Act Sept. 7, 1916, as amended, referred to in subsec. (a), means section 35 of the Federal Employees' Compensation Act. Such Act was repealed by section 8(a) of Pub.L. 89–544, Sept. 6, 1966, 80 Stat. 632, section 1 of which enacted as a revision Title 5, Government Organization and Employees, and incorporated section 35 in section 8147 thereof.

AMENDMENTS

1959—Subsec. (c). Pub. L. 86–70 added subsec. (c).

1958—Subsec. (a)(3). Pub. L. 85–608, substituted "a hostile force or person" for "the enemy".

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86–70 effective June 25, 1959, see section 47(g) of Pub. L. 86–70, set out as a note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note under section 1651 of this title.

EFFECTIVE DATE

Section effective Dec. 7, 1941, see note under section 1701 of this title.

TRANSFER OF FUNCTIONS

In text of this section, "Secretary", referring to the Secretary of Labor, was substituted for "Administrator" by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

United States Employees' Compensation Commission was abolished and its functions transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1705. Receipt of workmen's compensation benefits.

(a) No benefits shall be paid or furnished under the provisions of this subchapter for injury or death to any person who recovers or receives workmen's compensation benefits for the same injury or death under any other law of the United States, or under the law of any State, Territory, possession, foreign country, or other jurisdiction, or benefits in the nature of workmen's compensation benefits payable under an agreement approved or authorized by the United States pursuant to which a contractor with the United States has undertaken to provide such benefits.

(b) The Secretary shall have a lien and a right of recovery, to the extent of any payments made under this subchapter on account of injury or death, against any compensation payable under any other workmen's compensation law on account of the same injury or death; and any amounts recovered under this subsection shall be covered into the fund established under section 35 of Act of September 7, 1916, as amended.

(c) Where any person specified in section 1701 (a) of this title, or the dependent, beneficiary, or allottee of such person, receives or claims wages, payments in lieu of wages, insurance benefits for disability or loss of life (other than workmen's compensation benefits), and the cost of such wages, payments, or benefits is provided in whole or in part by the United States, the amount of such wages, payments, or benefits shall be credited, in such manner as the Secretary shall determine, against any payments to which any such person is entitled under this subchapter.

Where any person specified in section 1701 (a) of this title, or any dependent, beneficiary, or allottee of such person, or the legal representative or estate of any such entities, after having obtained benefits under this subchapter, seeks through any proceeding, claim, or otherwise, brought or maintained against the employer, the United States, or other person, to recover wages, payments in lieu of wages, or any sum claimed as for services rendered, or for failure to furnish transportation, or for liquidated or unliquidated damages under the employment contract, or any other benefit, and the right in respect thereto is alleged to have accrued during or as to any period of time in respect of which payments under this subchapter in such case have been made, and in like cases where a recovery is made or allowed, the Secretary shall have the right of intervention and a lien and right of recovery to the extent of any payments paid and payable under this subchapter in such case, provided the cost of such wages, payments in lieu of wages, or other such right, may be directly or indirectly paid by the United States; and any amounts recovered under this subsection shall be covered into the fund established under section 35 of Act of September 7, 1916, as amended.

(d) Where a national of a foreign government is entitled to benefits on account of injury or death resulting from a war-risk hazard, under the laws of his native country or any other foreign country, the benefits of this subchapter shall not apply.

(e) If at the time a person sustains an injury coming within the purview of this subchapter said

person is receiving workmen's compensation benefits on account of a prior accident or disease, said person shall not be entitled to any benefits under this subchapter during the period covered by such workmen's compensation benefits unless the injury from a war-risk hazard increases his disability, and then only to the extent such disability has been so increased. (Dec. 2, 1942, ch. 668, title I, § 105, 56 Stat. 1032; Dec. 23, 1943, ch. 380, title I, 57 Stat. 627; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271.)

REFERENCES IN TEXT

Section 35 of Act Sept. 7, 1916, as amended, referred to in subsecs. (b) and (c), means section 35 of the Federal Employees' Compensation Act. Such Act was repealed by section 8(a) of Pub. L. 89-544, Sept. 6, 1966, 80 Stat. 632, section 1 of which enacted as a revision Title 5, Government Organization and Employees and incorporated section 35 in section 8147 thereof.

AMENDMENTS

1943—Subsec. (c). Act Dec. 23, 1943 added second paragraph.

EFFECTIVE DATE OF 1943 AMENDMENT

Act Dec. 23, 1943, provided that: "The amendment * * * [to subsec. (c)] shall become effective as of the effective date of title I of such Act of December 2, 1942 [sections 1701-1706 of this title]."

EFFECTIVE DATE

Section effective Dec. 7, 1941, see note under section 1701 of this title.

TRANSFER OF FUNCTIONS

In text of this section, "Secretary", referring to the Secretary of Labor, was substituted for "Administrator" by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

"Administrator" was substituted for "Commission" by 1946 Reorg.Plan. No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1706. Administration.

(a) The provisions of this subchapter shall be administered by the Secretary of Labor, and the Secretary is authorized to make rules and regulations for the administration thereof and to contract with insurance carriers for the use of the service facilities of such carriers for the purpose of facilitating administration.

(b) In administering the provisions of this subchapter the Secretary may enter into agreements or cooperative working arrangements with other agencies of the United States or of any State (including the District of Columbia, Hawaii, Alaska, Puerto Rico, and the Virgin Islands) or political subdivision thereof, and with other public agencies and private persons, agencies, or institutions, within and outside the United States, to utilize their services and facilities and to compensate them for such use. The Secretary may delegate to any officer or employee, or to any agency, of the United States or of any State, or of any political subdivision thereof, or Territory or possession of the United States, such of his powers and duties as he finds necessary for carrying out the purposes of this subchapter.

(c) The Secretary, in his discretion, may waive the limitation provisions of Act of September 7, 1916, as amended, with respect to notice of injury and filing of claims under this subchapter, whenever the Secretary shall find that, because of circumstances beyond the control of an injured person or his beneficiary, compliance with such provisions could not have been accomplished within the time therein specified. (Dec. 2, 1942, ch. 668, title I, § 106, 56 Stat. 1033; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271.)

REFERENCES IN TEXT

Act Sept. 7, 1916, as amended, referred to in subsec. (c), means the Federal Employees' Compensation Act. Such Act was repealed by section 8(a) of Pub. L. 80-554, Sept. 6, 1966, 80 Stat. 632, section 1 of which enacted as a revision Title 5, Government Organization and Employees, and as chapter 81 thereof provisions for compensation for work injuries.

EFFECTIVE DATE

Section effective Dec. 7, 1941, see note under section 1701 of this title.

TRANSFER OF FUNCTIONS

In text of this section, "Secretary of Labor" was substituted for "Federal Security Administrator" and "Secretary" was substituted for "Administrator", by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

United States Employees' Compensation Commission was abolished and its functions transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959 upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§ 1711. Definitions.

When used is this chapter—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "war-risk hazard" means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving; from—

(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its Allies; or

(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person

as defined herein (except with respect to employees of a manufacturer, processor, or transporter of munitions during the manufacture, processing, or transporting thereof, or while stored on the premises of the manufacturer, processor, or transporter); or

(4) the collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

(c) The term "hostile force or person" means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this chapter is serving.

(d) The term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

(e) The term "war activities" includes activities directly relating to military operations.

(f) the term "continental United States" means the States and the District of Columbia. (Dec. 2, 1942, ch. 688, title II, § 201, 56 Stat. 1033; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271; June 30, 1953, ch. 176 § 1, 67 Stat. 134; June 30, 1954, ch. 431, § 1, 68 Stat. 336; June 30, 1955, ch. 257, § 1, 69 Stat. 241; July 9, 1956, ch. 537, § 1, 70 Stat. 519; June 29, 1957, Pub. L. 85-70, 71 Stat. 242; Aug. 8, 1958, Pub. L. 85-608, title I, §§ 103, 104, 72 Stat. 537; June 25, 1959, Pub. L. 86-70, § 42 (c), 73 Stat. 151.)

CODIFICATION

In the original of act Dec. 2, 1942, § 201, the opening clause read "When used in this Act (except when used in title III)—". Title III of such Act amended section 1651 of this title which is not in this chapter. Therefore, because of the use of the restrictive term "this chapter", in this section, the words in parenthesis "except when used in title III" were omitted as unnecessary. This chapter comprises the remainder of such Act.

AMENDMENTS

1959—Subsec. (f). Pub. L. 86-70 added subsec. (f).

1958—Subsec. (b). Pub. L. 85-608, § 103(a), omitted provisions which defined the term "war-risk hazard" to mean hazards arising after Dec. 6, 1941, and prior to July 1, 1958, and inserted provisions redefining the term to include hazards arising during a war or an armed conflict in which the United States is engaged, and hazards arising during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving.

Subsec. (b)(1). Pub. L. 85-608, § 104, substituted "a hostile force or person" for "an enemy" in two instances.

Subsec. (b)(2). Pub. L. 85-608, § 104, substituted "a hostile force or person" for "the enemy".

Subsec. (b)(3). Pub. L. 85-608, § 103(b), substituted "a war or armed conflict with a hostile force or person as defined herein" for "the national war effort", and excepted employees of transporters of munitions during the transportation thereof or while the munitions are stored on the premises of the transporter.

Subsec. (c). Pub. L. 85-608, § 103(c), substituted provisions defining "hostile force or person" for provisions which defined the term "enemy" to mean any nation, government, or force engaged in armed conflict with the Armed Forces of the United States or of any of its allies.

Subsec. (d). Pub. L. 85-608, § 103(d), substituted provisions redefining the term "allies" to mean any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance for provisions which defined the term as meaning any nation, government, or force participating with the United States in any armed conflict.

Subsec. (e). Pub. L. 85-608, § 103(e), substituted the definition of "war activities" for the provisions which defined "national war effort" and "war effort".

Subsec. (f). Pub. L. 85-608, § 103(f), repealed subsec. (f), which defined "war activities", is now covered by subsec. (e) of this section.

1957—Subsec. (b). Pub. L. 85-70 substituted "July 1, 1958" for "July 1, 1957".

1956—Subsec. (b). Act July 9, 1956 substituted "July 1, 1957" for "July 1, 1956".

1955—Subsec. (b). Act June 30, 1955, substituted "July 1, 1956" for "July 1, 1955".

1954—Subsec. (b). Act June 30, 1954 substituted "July 1, 1955" for "July 1, 1954".

1953—Subsec. (b). Act June 30, 1953, § 1(a), substituted "July 1, 1954" for "the end of the present war".

Subsecs. (c)—(f). Act June 30, 1953, § 1(b) added subsecs. (c)—(f).

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86-70 effective June 25, 1959, see section 47(g) of Pub. L. 86-70, set out as a note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as a note under section 1651 of this title.

TRANSFER OF FUNCTIONS

In par. (a), "Secretary" was substituted for "Administrator", and "Secretary of Labor" was substituted for "Federal Security Administrator", by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

"Federal Security Administrator" was substituted for "United States Employees' Compensation Commission", and "Administrator" was substituted for "Commission", by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1712. Disqualification from benefits.

No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its Allies, committed after the declaration by the President on May 27, 1941, of the national emergency, shall be entitled to compensation or other benefits under subchapter I of this chapter, nor shall any compensation be payable with respect to his death or detention under said subchapter, and upon indictment or the filing of an information charging the commission of any such subversive act, all such compensation or other benefits shall be suspended and remain suspended until acquittal or withdrawal of such charge, but upon conviction thereof or upon death occurring prior to a final disposition thereof, all such payments and all benefits under said subchapter shall be forfeited and terminated. If the charge is withdrawn, or there is an acquittal, all such compensation withheld shall be paid to the person or persons entitled thereto. (Dec. 2, 1942, ch. 668, title II, § 202, 56 Stat. 1034.)

NATIONAL EMERGENCY DECLARED ON MAY 27, 1941

The national emergency declared by the President on May 27, 1941, by Proc. No. 2487, 6 F. R. 2617, 55 Stat. 1647, was terminated April 28, 1952 by Proc. No. 2974, Apr. 30, 1952, 17 F. R. 3813, 66 Stat. ch. 31, set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

§ 1713. Fraud; penalties.

Whoever, for the purpose of causing an increase in any payment authorized to be made under this chapter, or for the purpose of causing any payment to be made where no payment is authorized hereunder, shall knowingly make or cause to be made, or aid or abet in the making of any false statement or representation of a material fact in any application for any payment under subchapter I of this chapter, or knowingly make or cause to be made, or aid or abet in the making of any false statement, representation, affidavit, or document in connection with such an application, or claim, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (Dec. 2, 1942, ch. 668, title II, § 203, 56 Stat. 1034.)

CROSS REFERENCES

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1714. Legal services.

No claim for legal services or for any other services rendered in respect of a claim or award for compensation under subchapter I of this chapter to or on account of any person shall be valid unless approved by the Secretary; and any claim so approved shall, in the manner and to the extent fixed by the said Secretary, be paid out of the compensation payable to the claimant; and any person who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is so approved, or who solicits employment for another person or for himself in respect of any claim or award for compensation under said subchapter shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be fined not more than $1,000 or imprisoned not more than one year, or both. (Dec. 2, 1942, ch. 668, title II, § 204, 56 Stat. 1034; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271.)

TRANSFER OF FUNCTIONS

In text of this section, "Secretary" was substituted for "Administrator" by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

United States Employees' Conpensation Commission was abolished and its functions transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1715. Finality of Secretary's decisions.

The action of the Secretary in allowing or denying any payment under subchapter I of this chapter shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action. (Dec. 2, 1942, ch. 668, title II, § 205, 56 Stat. 1034; 1946 Reorg. Plan No. 2, § 3, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271.)

TRANSFER OF FUNCTIONS

In text of this section, "Secretary" was substituted for "Administrator" by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

United States Employees' Compensation Commission was abolished and its functions transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1716. Presumption of death or detention.

A determination that an individual is dead or a determination that he has been detained by a hostile force or person may be made on the basis of evidence that he has disappeared under circumstances such as to make such death or detention appear probable. (Dec. 2, 1942, ch. 668, title II, § 206, 56 Stat. 1034; Aug. 8, 1958, Pub. L. 85-608, title I, § 104, 72 Stat. 537.)

AMENDMENTS

1958—Pub. L. 85-608 substituted "a hostile force or person" for "the enemy".

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-608 effective June 30, 1958, see section 402 of Pub. L. 85-608, set out as a note under section 1651 of this title.

§ 1717. Assignment of benefits; execution, levy, etc., against benefits.

The right of any person to any benefit under subchapter I of this chapter shall not be transferable or assignable at law or in equity except to the United States, and none of the moneys paid or payable (except money paid hereunder as reimbursement for funeral expenses or as reimbursement with respect to payments of workmen's compensation or in the nature of workmen's compensation benefits), or rights existing under said subchapter, shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law. (Dec. 2, 1942, ch. 668, title II, § 207, 56 Stat. 1035.)

Chapter 13.—SCHOOL LUNCH PROGRAMS

Sec.
1751. Congressional declaration of policy.
1752. Appropriations.
1753. Apportionments to States; definition.
1754. Nonfood assistance; amount; apportionment.
1755. Administrative expenses; nutrition education; direct expenditures.
1756. Payments to States; matching payments by States; makeup and disbursement of State revenue.
1757. State disbursement to schools; purpose; food costs; limitation.
1758. Nutritional and other program requirements; free and reduced cost meal eligibility and priorities; overt identification; donation of agricultural commodities; maximum utilization of donated commodities; applicability to nonprofit private schools.
1759. Disbursement to nonprofit private schools; conditions.
1759a. Special assistance.
(a) Appropriations.
(b) Formula for apportionment of funds; need for additional funds.

Sec.
1759a. Special assistance—Continued
(c) Basis for apportionment among States; need for additional funds.
(d) Payments to States.
(e) State disbursement to schools for financing operating costs of the school lunch program; basis for determination of amount of funds.
(f) Withholding of funds from State educational agencies not permitted to disburse funds to nonprofit private schools; direct disbursement to nonprofit private schools, conditions.
(g) Terms and conditions.
(h) Submission of State plan of child nutrition operations, contents; report of school to State educational agency, contents; report of State educational agency to the Secretary, contents.
1760. State accounts and records; inspection and adulit; period of retention; definition.
1761. Special food service program for children.
(a) Authorization of appropriations.
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(c) State disbursements to service institutions; situations of severe need; purchase and rental of equipment.
(d) Direct disbursement to service institutions by Secretary.
(e) Continuing availability of unobligated appropriated funds.
(f) Nutritional standards; free and reduced cost meal eligibility; overt identification.
(g) Additional funds; apportionment of unused funds.
(h) Certification to Secretary of the Treasury; use of donated foods; nontaxability of assistance; administrative expenses; recordkeeping.
1762. Emergency assistance to provide nutritious meals to needy children in schools.
1763. National Advisory Council on Child Nutrition.
(a) Establishment; membership.
(b) Terms of members.
(c) Chairman; Vice Chairman.
(d) Meetings.
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(f) Functions.
(g) Technical assistance.
(h) Compensation and travel expenses.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to sections 1774, 1779, 1782 of this title.

§ 1751. Congressional declaration of policy.

It is declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs. (June 4, 1946, ch. 281, § 2, 60 Stat. 230.)

SHORT TITLE

Section 1 of act June 4, 1946, provided that act June 4, 1946, which is classified to this chapter, should be popularly known as the "National School Lunch Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1755 of this title.

§ 1752. Appropriations.

For each fiscal year there is authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this chapter, other than sections 1759a and 1761 of this title. Appropriations to carry out the provisions of this chapter and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this chapter and the Child Nutrition Act of 1966 shall remain available for the purposes of the Act for which appropriated until expended. (June 4, 1946, ch. 287, § 3, 60 Stat. 230; Oct. 15, 1962, Pub. L. 87–823, § 1, 76 Stat. 944; May 8, 1968, Pub. L. 90–302, § 1, 82 Stat. 117; May 14, 1970, Pub. L. 91–248, § 1(a), 84 Stat. 208.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A of this title.

AMENDMENTS

1970—Pub. L. 91–248 provided that the appropriations for the child food service programs may be made a year in advance of the beginning of the fiscal year in which the funds become available and that funds appropriated for such programs remain available until expended.

1968—Pub. L. 90–302 added section 1761 to the enumeration of sections expected from the application of this section.

1962—Pub. L. 87–823 deleted ", beginning with the fiscal year ending June 30, 1947," following "fiscal year" and added the phrase ", other than section 1759a of this title."

APPROPRIATIONS AS FUNCTIONS OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Section 1 of Pub. L. 90–302 provided in part that appropriations shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1754 of this title.

§ 1753. Apportionments to States; definition.

The sums appropriated for any fiscal year pursuant to the authorization contained in section 1752 of this title, excluding the sum specified in section 1754 of this title, shall be available to the Secretary for supplying agricultural commodities and other foods for the program in accordance with the provisions of this chapter. The Secretary shall apportion among the States during each fiscal year not less than 75 per centum of the funds made available for such year for supplying agricultural commodities and other foods under the provisions of section 1752 of this title. Apportionment among the States shall be made on the basis of two factors: (1) the participation rate for the State, and (2) the assistance need rate for the State. The amount of apportionment to any State shall be determined by the following method: First, determine an index for the State by multiplying factors (1) and (2); second, divide this index by the sum of the indices for all the States (exclusive of American Samoa for periods ending before July 1, 1967); and third, apply the figure thus obtained to the total funds to be apportioned. If any State cannot utilize all funds so apportioned to it, or if additional funds are made

available under section 1752 of this title for apportionment among the States, the Secretary shall make further apportionments to the remaining States in the same manner. Notwithstanding the foregoing provisions of this section, (1) for the fiscal year beginning July 1, 1962, three-quarters of any funds available for apportionment among the States shall be apportioned in the manner used prior to such fiscal year, and one-quarter of any such funds shall be apportioned in accordance with the foregoing sentences of this section, (2) for the fiscal year beginning July 1, 1963, one-half of any funds available for apportionment among the States shall be apportioned in the manner used prior to the fiscal year beginning July 1, 1962, and one-half of any such funds shall be apportioned in accordance with the foregoing sentences of this section, (3) for the fiscal year beginning July 1, 1964, one-quarter of any funds available for apportionment among the States shall be apportioned in the manner used prior to the fiscal year beginning July 1, 1962, and three-quarters of any such funds shall be apportioned in accordance with the foregoing sentences of this section, and (4) for the five fiscal years in the period beginning July 1, 1962, and ending June 30, 1967, the amount apportioned to American Samoa shall be $25,000 each year, which amount shall be first deducted from the funds available for apportionment in determining the amounts to be apportioned to the other States. (June 4, 1946, ch. 281, § 5, 60 Stat. 231; July 12, 1952, ch. 669, § 1(b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87–823, § 2, 76 Stat. 944.)

AMENDMENTS

1962—Pub. L. 87–823 amended section generally, and, among other changes, substituted as factors for apportionment of funds among the States "(1) the participation rate for the State, and (2) the assistance need rate for the State" for "(1) the number of school children in the State and (2) the need for assistance in the State as indicated by the relation of the per capita income of the United States to the per capita income in the State"; inserted, in the provision for determination of amount of apportionment in clause designated "second", "(exclusive of American Samoa for periods ending before July 1, 1967)"; added provisions for use of transitional formulas in apportionment of funds for fiscal years beginning in 1962, 1963 and 1964 and apportioning to American Samoa $25,000 annually for five fiscal years in period beginning July 1, 1962 and ending June 30, 1967; and omitted the apportionment formula for Puerto Rico, Guam, American Samoa, and the Virgin Islands, which limited apportionments to 3 per centum of the total fund to be apportioned but required the apportionment to each to be not less than an amount which would result in an allotment per child of school age equal to that for the State with the lowest per capita income, the definition of school (incorporated in section 1760(d)(7) of this title), the provision for use of latest per capita income figures certified by the Department of Commerce (incorporated in section 1760(d)(6)(ii) of this title), and the definition of school children, which provided that the number of school children should be the number between the ages of five and seventeen.

Pub. L. 87–688 inserted "American Samoa," following "Guam," in two instances and "the apportionment for American Samoa," following "the apportionment for Guam,".

1952—Act July 12, 1952 removed Alaska and Hawaii from the 3 percent limitation imposed on Puerto Rico and the Virgin Islands, made the limitation applicable to Guam, and modified the effects of the 3 per cent limitation.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 3(b) of Pub. L. 87–688 provided that: "The amendments made by this section [to this section and sections 1754, and 1760(d)(1) of this title] shall be applicable only with respect to funds appropriated after the date of enactment of this Act [Sept. 25, 1962]."

EFFECTIVE DATE OF 1952 AMENDMENT

Section 1 (d) of act July 12, 1952, provided that amendments made by section 1 (a)—(c) of act July 12, 1952, shall be effective only with respect to funds appropriated after July 12, 1952.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1754, 1755, 1756, 1757, 1759, 1759a, 1773, 1774 of this title.

§ 1754. Nonfood assistance; amount; apportionment.

Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 1752 of this title, $10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school-lunch program pursuant to the provisions of this chapter. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $10,000,000, and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards, set forth in section 1753 of this title with respect to the apportionment for agricultural commodities and other foods. (June 4, 1946, ch. 281, § 5, 60 Stat. 231; July 12, 1952, ch. 669, § 1, (b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87–823, § 3(a), 76 Stat. 945.)

AMENDMENTS

1962—Pub. L. 87–823 struck out the last sentence reading: "Apportionment of funds for use in Puerto Rico, Guam, and the Virgin Islands for nonfood assistance shall be determined subject to the provisions of the third sentence of section 1753 of this title."

Pub. L. 87–688 inserted "American Samoa," following "Guam,".

1952—Act July 12, 1952 made the method of apportioning funds for nonfood assistance follow the method of apportioning funds for agricultural commodities and other foods as set out in section 1753 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of this section by Pub. L. 87–688 applicable only with respect to funds appropriated after Sept. 25, 1962, see section 3(b) of Pub. L. 87–688, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act July 12, 1952, effective only with respect to funds appropriated after July 12, 1952, see section 1(d) of act July 12, 1952, set out as a note under section 1753 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1755, 1756, 1757, 1759, 1759a of this title.

§ 1755. Administrative expenses; nutrition education; direct expenditures.

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 1772 of this title, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this chapter and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to sections 1753 and 1754 of this title and the amount appropriated pursuant to sections 1759a and 1761 of this title and sections 1773, 1774, and 1776 of this title; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966, other than section 1772 of this title, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 1751 of this title, and section 1771 of this title,

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this chapter and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of section 713c of Title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of Title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. (June 4, 1946, ch. 281, § 6, 60 Stat. 231; Oct. 15, 1962, Pub. L. 87–823, § 3(b), 76 Stat. 945; May 8, 1968, Pub. L. 90–302, § 2(a), 82 Stat. 117; May 14, 1970, Pub. L. 91–248, § 3, 84 Stat. 209.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A of this title.

Section 713c of Title 15, referred to in the text, which related to the continuance of the existence of Federal Surplus Commodities Corporation and the purchase and distribution of surplus agricultural commodities, expired by its own terms on June 30, 1945.

AMENDMENTS

1970—Pub. L. 91–248 increased the amount authorized for administrative expenses by 3½ percent of the amount appropriated to carry out this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, made such amount available for the Secretary's administrative expenses, authorized use of up to 1 percent of the funds appropriated for this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, for nutritional training and education and studies of food service requirements in connection with those programs, reduced, to the extent funds were used for administrative expenses other than for this chapter or nutritional training or education or studies, the share of this chapter's appropriations which may be used for direct expenditure by the Secretary for agricultural commodities and other foods, and authorized distribution of such foods to schools and service institutions participating in food service programs under this chapter and the Child Nutrition Act of 1966.

1968—Pub. L. 90–302 added "except section 1761 of this title" following "The funds appropriated for any fiscal year for carrying out the provisions of this chapter,".

1962—Pub. L. 87–823 substituted ", less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title, and less the amount appropriated pursuant to section 1759a of this title" for "and less the amount apportioned to him pursuant to sections 1753, 1754, and 1759 of this title."

CROSS REFERENCES

Utilization of services and facilities of Commodity Credit Corporation in carrying out program under this section, see section 1424 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1424.

§ 1756. Payments to States; matching payments by States; makeup and disbursement of State revenue.

Funds apportioned to any State pursuant to sections 1753 or 1754 of this title during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this chapter, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school-lunch program authorized under this chapter. Such payments to any State in any fiscal year during the period 1947 to 1950, inclusive, shall be made upon condition that each dollar thereof will be matched during such year by $1 from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this chapter. Such payments in any fiscal year during the period 1951 to 1955, inclusive, shall be made upon condition that each dollar thereof will be so matched by one and one-half dollars; and for any fiscal year thereafter, such payments shall be made upon condition that each dollar will be so matched by $3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 1759 of this title, respectively, have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 1759 of this title, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school-lunch program. For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement; for each of the subsequent two fiscal years, at least 8 per centum

of the matching requirement; and for each fiscal year thereafter, at least 10 per centum of the matching requirement. The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 1753 and 1759a of this title and sections 1773 and 1774 of this title. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified. (June 4, 1946, ch. 281, § 7, 60 Stat. 232; May 14, 1970, Pub. L. 91–248, § 4, 84 Stat. 209.)

AMENDMENTS

1970—Pub. L. 91–248 added provision requiring that State revenues represent a prescribed minimum of the local funds required to match Federal funds apportioned under this chapter, required that amounts derived by the State from the program, or expended by it for salaries or administrative expenses at the State level, would not count toward meeting the State revenue share of the matching requirement, and required State funds disbursed to each school, to the extent practicable, on the basis of its share of the funds apportioned for the regular school lunch program, the special assistance program to schools to assure lunches for low-income children, the school breakfast program for needy children, and the nonfood assistance program for schools drawing from poor economic areas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1759, 1759a of this title.

§ 1757. State disbursement to schools; purpose; food costs; limitation.

Funds paid to any State during any fiscal year pursuant to sections 1753 or 1754 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of reimbursing it for the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this chapter during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. (June 4, 1946, ch. 281, § 8, 60 Stat. 232.)

§ 1758. Nutritional and other program requirements; free and reduced cost meal eligibility and priorities; overt identification; donation of agricultural commodities; maximum utilization of donated commodities; applicability to nonprofit private schools.

Lunches served by schools participating in the school-lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students. Such meals shall be served without cost or at a reduced cost not exceeding 20 cents per meal to children who are determined by local school authorities to be unable to pay the full cost of the lunch. Such determinations shall be made by local school authorities in accordance with a publicly announced policy and plan applied equitably on the basis of criteria which, as a minimum, shall include the level of family income, including welfare grants, the number in the family unit, and the number of children in the family unit attending school or service institutions; but, by January 1, 1971, any child who is a member of a household which has an annual income not above the applicable family size income level set forth in the income poverty guidelines shall be served meals free or at reduced cost. The income poverty guidelines to be used for any fiscal year shall be those prescribed by the Secretary as of July 1 of such year. In providing meals free or at reduced cost to needy children, first priority shall be given to providing free meals to the neediest children. Determination with respect to the annual income of any household shall be made solely on the basis of an affidavit executed in such form as the Secretary may prescribe by an adult member of such household. No physical segregation of or other discrimination against any child shall be made by the school because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. School-lunch programs under this chapter shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area or commodities donated by the Secretary. Commodities purchased under the authority of section 612c of Title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this chapter as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 612c of Title 7, under section 1431 of Title 7, and under section 1446a–1 of Title 7, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program

of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to nonprofit private schools which participate in the school lunch program under the provisions of section 1759 of this title until such time as the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements. (June 4, 1946, ch. 281, § 9, 60 Stat. 233; May 8, 1968, Pub. L. 90-302, § 2(b), 82 Stat. 117; May 14, 1970, Pub. L. 91-248, § 6(a), (b), (d), (e), 84 Stat. 210.)

AMENDMENTS

1970—Pub. L. 91-248 placed a ceiling of 20 cents on any reduced price meal offered under the school lunch program, provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general, but, under which, by Jan. 1, 1971 such determination shall be based on the income poverty guidelines with first priority given to providing free meals to the neediest children, provided that there be no overt identification of those children who receive free and reduced price meals, authorized the Secretary to prescribe such terms and conditions for food service in the non-national School Lunch Act schools as well as schools under this Act which are receiving Federal assistance in the form of commodities, and excepted from the requirements of this section with respect to amount for reduced cost meals and eligibility for meals without cost nonprofit private schools which participate in the school lunch program under the provisions of section 1759 of this title until the Secretary certifies that sufficient funds are available to enable such schools to meet the requirements of this section.

1968—Pub. L. 90-302 provided that the minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research which the lunches served by participating schools must meet could not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1759, 1759a, 1760 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31-1405 of the District of Columbia Code.

§ 1759. Disbursement to nonprofit private schools; conditions.

If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this chapter to nonprofit private schools in the State, or is not permitted by law to match Federal funds made available for use by such nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such States under sections 1753 and 1754 of this title an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by all nonprofit private schools participating in the program under this chapter within the State, as determined by the Secretary, bears to the participation rate for the State. The Secretary shall disburse the funds so withheld directly to the nonprofit private schools within said State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 1756 of this title for such State, by funds from sources within the State expended by nonprofit private schools within the State participating in the school-lunch program under this chapter. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 1756 of this title. (June 4, 1946, ch. 281, § 10, 60 Stat. 233; Oct. 15, 1962, Pub. L. 87-823, § 4, 76 Stat. 945; May 14, 1970, Pub. L. 91-248, § 1(b), 84 Stat. 208.)

AMENDMENTS

1970—Pub. L. 91-248 provided that the data upon which State apportionments are calculated is the program year completed two years immediately prior to the fiscal year for which the appropriation is requested.

1962—Pub. L. 87-823 substituted "an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the preceding fiscal year by all nonprofit private schools participating in the program under this chapter within the State, as determined by the Secretary, bears to the participation rate for the State" for "the same proportion of the funds as the number of children between the ages of 5 and 17, inclusive, attending nonprofit private schools within the State, is of the total number of persons of those ages within the State attending school."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1758, 1773, 1774 of this title.

§ 1759a. Special assistance.

(a) Appropriations.

There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each succeeding fiscal year such sums as may be necessary to provide special assistance to assure access to the school lunch program under this chapter by children of low-income families.

(b) Formula for apportionment of funds; need for additional funds.

Of the sums appropriated pursuant to this section for any fiscal year, 3 per centum shall be available for apportionment to Puerto Rico, the Virgin Islands, Guam, and American Samoa. From the funds so available the Secretary shall apportion to each such State an amount which bears the same ratio to such funds as the number of children aged three to seventeen, inclusive, in such State bears to the total number of such children in all such States. If any such State cannot utilize for the purposes of this section all of the funds so apportioned to it, the Secretary shall make further apportionment on the same basis as the initial apportionment to any such State which justifies, on the basis of operating experience, the need for additional funds for such purposes.

(c) Basis for apportionment among States; need for additional funds.

The remaining sums appropriated pursuant to this section for any fiscal year shall be apportioned

among States, other than Puerto Rico, the Virgin Islands, Guam, and American Samoa. The amount apportioned to each such State shall bear the same ratio to such remaining funds as the number of children in such State aged three to seventeen, inclusive, in households with incomes of less than $4,000 per annum bears to the total number of such children in all such States. If any such State cannot utilize for the purposes of this section all of the funds so apportioned to it, the Secretary shall make further apportionment on the same basis as the initial apportionment to any such State which justifies, on the basis of operating experience, the need for such additional funds for such purposes.

(d) Payments to States.

Payment of the funds apportioned to any State under this section shall be made as provided in the last sentence of section 1756 of this title.

(e) State disbursement to schools for financing operating costs of the school lunch program; basis for determination of amount of funds.

Funds paid to any State for any fiscal year pursuant to this section shall be disbursed to schools in such State to assist them in financing all or part of the operating costs of the school lunch program in such schools including the costs of obtaining, preparing, and serving food. The amounts of funds that each school shall from time to time receive, within a maximum per meal amount established by the Secretary for all States, shall be based on the need of the school for assistance in meeting the requirements of 1758 of this title concerning the service of lunches to children unable to pay the full cost of such lunches.

(f) Withholding of funds from State educational agencies not permitted to disburse funds to nonprofit private schools; direct disbursement to nonprofit private schools, conditions.

If in any State the State educational agency is not permitted by law to disburse funds paid to it under this chapter to nonprofit private schools in the State, the Secretary shall withhold from the funds apportioned to such State under subsection (b) or (c) of this section an amount which bears the same ratio to such funds as the number of free or reduced-price lunches served in accordance with section 1758 of this title in the fiscal year beginning two years immediately prior to the fiscal year for which the funds are appropriated, by all nonprofit private schools participating in the program under this chapter in such State, bears to the number of such free and reduced-price lunches served during such prior year by all schools participating in the program under this chapter in such State. The Secretary shall disburse the funds so withheld directly to the nonprofit private schools within such State for the same purposes and subject to the same conditions as are applicable to a State educational agency disbursing funds under this section.

(g) Terms and conditions.

In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this chapter, including those applicable to funds apportioned or paid pursuant to section 1753 or 1754 of this title but excluding the provisions of section 1756 of this title relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(h) Submission of State plan of child nutrition operations, contents; report of school to State educational agency, contents; report of State educational agency to the Secretary, contents.

(1) Not later than January 1 of each year, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this chapter and the Child Nutrition Act of 1966, a State plan of child nutrition operations for the following fiscal year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided under this chapter and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 1758 of this title; (B) to extend the school-lunch program under this chapter to every school within the State, and (C) to use the funds provided under section 1761 of this title and section 1773 of this title and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school-lunch program under this chapter shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch. (June 4, 1946, ch. 281, § 11, as added Oct. 15, 1962, Pub. L. 87–823, § 6, 76 Stat. 946, and amended May 14, 1970, Pub. L. 91–248, § 7, 84 Stat. 211.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (h), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–248 authorized for the fiscal year ending June 30, 1971, and for each succeeding fiscal year such sums as may be necessary to provide assistance to assure access to the school lunch program by children of low-income families.

Subsec. (b). Pub. L. 91–248 substituted formula for apportionment of funds among Puerto Rico, the Virgin Islands, Guam, and American Samoa based on the ratio of the number of children aged three to seventeen, inclusive, in such State as compared to the total number of such children in all such States, for a ratio based on the number of free or reduced price lunches served in the preceding fiscal year in such State as compared to the number of such lunches served in all such States in the preceding fiscal year.

Subsec. (c). Pub. L. 91–248 struck out provision requiring that not less than 50 percent of the remaining sums appropriated be apportioned among the States other than Puerto Rico, the Virgin Islands, Guam, and American Samoa, substituted formula for apportionment of special assistance funds among the States based on the total number of children aged three to seventeen, inclusive, in households with incomes of less than $4,000 per annum, for a formula based on the number of free or reduced price lunches served in the preceding fiscal year and the assistance need rate, and provided that further apportionment be made on the same basis as the initial apportionment to any State which justifies the need for additional funds.

Subsec. (e). Pub. L. 91–248 substituted provision requiring that funds disbursed by the State be used to assist schools in financing all or part of the operating costs of the school lunch program, for requirement that disbursed funds be used to assist schools in the purchase of agricultural commodities and other foods, struck out provision relating to the selection of schools to receive funds, and substituted as a basis for determination of the amount of funds to go to each school the need of that school for assistance in meeting the requirements of section 1758 of this title, for such factors as economic condition of area from which school draws attendance, the percentages of free and reduced price lunches being served in such schools, the price of lunches in such schools compared with the average prevailing price of lunches served in the State under this chapter and the need of such schools for assistance as reflected by the financial position of the school's lunch programs.

Subsec. (f). Pub. L. 91–248 substituted "in the fiscal year beginning two years immediately prior to the fiscal year for which the funds are appropriated" for "in the preceding fiscal year".

Subsec. (h). Pub. L. 91–248 added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1755, 1756, 1776 of this title.

§ 1760. State accounts and records; inspection and audit; period of retention; definition.

(a) States, State educational agencies, and schools participating in the school-lunch program under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this chapter with respect to the operation of the school-lunch program under this chapter insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this chapter.

(c) In carrying out the provisions of this chapter, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) For the purposes of this chapter—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(3) "Nonprofit private school" means any private school exempt from income tax under section 501(c)(3) of Title 26.

(4) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for schoolchildren.

(5) "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this chapter in the State, as determined by the Secretary.

(6) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967.

(7) "School" means any public or nonprofit private school of high school grade or under and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico.

(June 4, 1946, ch. 281, § 12, formerly § 11, 60 Stat. 233; July 12, 1952, ch. 699, § 1(c), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, § 3(a), 76 Stat. 587, renumbered and amended Oct. 15, 1962, Pub. L. 87–823, § 5, 76 Stat. 945; May 14, 1970, Pub. L. 91–248, § 1(b), 84 Stat. 208.)

AMENDMENTS

1970—Subsec. (d)(5). Pub. L. 91–248 provided that the data upon which State apportionments are calculated is the program year completed two years immediately prior to the fiscal year for which the appropriation is requested.

1962—Subsec. (c). Pub. L. 87–823 omitted requirement of just and equitable distribution of funds in States maintaining separate schools for minority and majority races.

Subsec. (d). Pub. L. 87–823 redefined the term "State" in par. (1) to recognize Hawaiian and Alaskan statehood

and to include American Samoa; the term "State educational agency" in par. (2) to exclude an exception applicable to the District of Columbia and language which was effective by its terms only through June 30, 1948; the term "nonprofit private school" in par. (3), substituting "section 501(c)(3) of Title 26" for "section 101(6) of Title 26"; and the term "nonfood assistance" in par. (4), substituting "used by schools" for "used on school premises"; and added pars. (5)—(7).

Pub. L. 87-688 inserted "American Samoa," following "Guam".

1952—Subsec. (d)(1). Act July 12, 1952 included Guam within the definition of States.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of this section by Pub. L. 87-688 applicable only with respect to funds appropriated after Sept. 25, 1962, see section 3(b) of Pub. L. 87-688, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act July 12, 1952, effective only with respect to funds appropriated after July 12, 1952, see section 1(d) of act July 12, 1952, set out as a note under section 1753 of this title.

§ 1761. Special food service program for children.

(a) Authorization of appropriations.

(1) There is authorized to be appropriated $32,000,000 for each of the three fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971, to enable the Secretary to formulate and carry out a pilot program to assist States through grants-in-aid and other means, to initiate, maintain, or expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means private, nonprofit institutions or public institutions, such as child day-care centers, settlement houses, or recreation centers, which provide day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and includes public and private nonprofit institutions providing day care services for handicapped children.

(2) Subject to all the provisions of this section, the term "service institutions" also includes public or private nonprofit institutions that develop special summer programs providing food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year, including such institutions providing day care services for handicapped children.

(b) Formula for apportionment of funds.

(1) Of the funds appropriated for the purposes of this section for any fiscal year, the Secretary shall reserve 2 per centum for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall each be paid an amount which bears the same ratio to the total of such reserved funds as the number of children aged three to seventeen, inclusive, in each bears to the total number of children of such ages in all of them.

(2) From the remainder of the funds appropriated for any fiscal year, the Secretary shall pay to each State such sums as he deems appropriate, but not more than $50,000, as a basic grant. In addition, the Secretary shall allot to each State from the funds remaining after the basic grants have been made an amount which bears the same ratio to such remaining funds as the number of children in that State aged three to seventeen, inclusive, in families with incomes of less than $3,000 per annum bears to the total number of such children in all the States. For the purposes of this paragraph, the term "State" does not include Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(c) State disbursements to service institutions; situations of severe need; purchase and rental of equipment.

(1) Funds paid to any State under this section shall be disbursed by the State educational agency to service institutions, selected on a nondiscriminatory basis by the State educational agency, (A) to reimburse the service institutions for the cost of obtaining agricultural commodities and other foods, and (B) for the purposes of paragraphs (2) and (3) of this subsection. The costs of obtaining agricultural commodities and other foods may include the cost of the processing, distributing, transporting, or handling thereof. Disbursement to participating service institutions shall be made at such rate of reimbursement per meal as the Secretary shall prescribe.

(2) In circumstances of severe need where the rate per meal established by the Secretary is insufficient to carry on an effective feeding program, the Secretary may authorize financial assistance not to exceed 80 per centum of the operating costs of such a program, including the cost of obtaining, preparing, and serving food. In the selection of institutions to receive assistance under this subsection, the State educational agency shall require the applicant institutions to provide justification of the need for such assistance.

(3) Not to exceed 25 per centum of the funds paid to any State may be used by the State to assist service institutions by paying not to exceed 75 per centum of the cost of the purchase or rental of equipment, other than land and buildings, for the storage, preparation, transportation, and serving of food to enable the service institutions to establish, maintain, and expand food service under this section.

(d) Direct disbursement to service institutions by Secretary.

If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall withhold all funds apportioned under this section and shall disburse the funds so withheld directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(e) Continuing availability of unobligated appropriated funds.

Notwithstanding the provision of any other law, balances of funds appropriated for the purposes of this section and unobligated at the end of any fiscal year shall remain available for obligation during the first three months of the following fiscal year.

(f) Nutritional standards; free and reduced cost meal eligibility; overt identification.

Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost or at a reduced cost to children determined by the service institutions to be unable to pay the full cost. Such determinations shall be made by the service institution authorities in accordance with a publicly announced policy and plan applied equitably on the basis of criteria which, as a minimum, shall include the level of family income, including welfare grants, the number in the family unit, and the number of children in the family unit attending school or service institutions. In making such determination, service institution authorities should, to the extent practicable, consult with public welfare and health agencies. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means.

(g) Additional funds; apportionment of unused funds.

If any State cannot utilize all funds apportioned to it, or if additional funds are made available for apportionment among the States, under this section, the Secretary shall make further apportionments to the remaining States in the manner prescribed in subsection (b) of this section.

(h) Certification to Secretary of the Treasury; use of donated foods; nontaxability of assistance; administrative expenses; recordkeeping.

(1) The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(2) Each service institution participating under this section shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 1431 of Title 7 or purchased under section 612c of Title 7, or section 1446a-1 of Title 7, may be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(3) The value of assistance to children under this section shall not be considered to be income or resources for any purpose under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(4) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expenses under this section.

(5) States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary. (June 4, 1946, ch. 281, § 13, as added May 8, 1968, Pub. L. 90-302, § 3, 82 Stat. 117, and amended May 14, 1970, Pub. L. 91-248, § 6(c), (d), 84 Stat. 210.)

AMENDMENTS

1970—Subsec. (f). Pub. L. 91-248 provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general and provided that there be no overt identification of those children who receive free and reduced price meals.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1759a, 1776 of this title.

§ 1762. Emergency assistance to provide nutritious meals to needy children in schools.

Notwithstanding any other provision of law, under such terms and conditions as he deems in the public interest, the Secretary of Agriculture is authorized to use an additional amount, not to exceed $30,000,000, of funds from section 612c of Title 7, to supplement funds heretofore made available to carry out programs during the fiscal year 1970 to improve the nutrition of needy children in public and nonprofit private schools participating in the national school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966. (June 4, 1946, ch. 281, § 13A, as added Mar. 12, 1970, Pub. L. 91-207, 84 Stat. 51.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A of this title.

§ 1763. National Advisory Council on Child Nutrition.

(a) Establishment; membership.

There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of thirteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member, shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of

their education, training, experience, and knowledge in matters relating to child food programs.

(b) Terms of members.

The nine members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that such members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) Chairman; Vice Chairman.

The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) Meetings.

The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Quorum.

Seven members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) Functions.

It shall be the function of the Council to make a continuing study of the operation of programs carried out under this chapter, the Child Nutrition Act of 1966, and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(g) Technical assistance.

The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this chapter.

(h) Compensation and travel expenses.

Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. (June 4, 1946, ch. 281, § 14, as added May 14, 1970, Pub. L. 91-248, § 9, 84 Stat. 213.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (f), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, and is classified to chapter 13A of this title.

Chapter 13A.—CHILD NUTRITION

Sec.
1771. Congressional declaration of purpose.
1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations.
1773. School breakfast program.
(a) Establishment; authorization of appropriations.
(b) Apportionment of funds to States.
1773. School breakfast program—Continued
(c) Disbursement of apportioned funds by State; preference for schools in poor economic areas and for students traveling long distances daily.
(d) Increased financial assistance in cases of severe need.
(e) Nutritional requirements; limitation of recipient children to children unable to pay full cost; overt identification.
(f) Nonprofit private schools.
1774. Nonfood assistance program.
(a) Establishment; equipment required for food service programs; authorization of appropriations.
(b) Apportionment of funds to States.
(c) Disbursement of apportioned funds by State; determination of need; approval of plans.
(d) Nonprofit private schools.
1775. Certification to Secretary of the Treasury of amounts to be paid to States.
1776. State administrative expenses.
1777. Use in school breakfast program of food designated as being in abundance or food donated by the Secretary of Agriculture.
1778. Nonprofit programs.
1779. Rules and regulations; transfer of funds from one program to another; special projects.
1780. Prohibition against interference with school personnel, curriculum, or instruction; prohibition against inclusion of assistance in determining income or resources for purposes of taxation, welfare, or public assistance programs.
1781. Preschool programs.
1782. Centralization in Department of Agriculture of administration of food service programs for children.
1783. Authorization of appropriation to the Secretary of Agriculture for administrative expenses.
1784. Definitions.
1785. Accounts and records; availability for inspection.

CHAPTER REFFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1752, 1755, 1759a, 1762, 1763 of this title.

§ 1771. Congressional declaration of purpose.

In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with is significant contributions in the field of applied nutrition research, it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children. (Pub. L. 89-642, § 2, Oct. 11, 1966, 80 Stat. 885.)

SHORT TITLE

Section 1 of Pub. L. 89-642 provided: "That this Act [enacting this chapter] may be cited as the 'Child Nutrition Act of 1966'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1755 of this title.

§ 1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations.

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, not to exceed $120,000,000, to enable the Secretary of Agriculture, under such

rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969. (Pub. L. 89–642, § 3, Oct. 11, 1966, 80 Stat. 885; Pub. L. 91–295, June 30, 1970, 84 Stat. 336.)

AMENDMENTS

1970—Pub. L. 91–295 substituted provisions authorizing appropriations of not to exceed $120,000,000 for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, for provisions authorizing appropriations of not to exceed $110,000,000 for the fiscal year ending June 30, 1967, not to exceed $115,000,000 for the fiscal year ending June 30, 1968, and not to exceed $120,000,000 for each of the two succeeding fiscal years, and provisions requiring the Secretary to administer the special milk program provided for by this section in the same manner as he administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969, for provisions requiring the Secretary to administer such program in the same manner as he administered the special milk program provided for by Pub. L. 85–478, as amended, during the fiscal year ending June 30, 1966, and provided that Guam be subject to the provisions of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1775, 1780 of this title.

§ 1773. School breakfast program.

(a) Establishment; authorization of appropriations.

There is hereby authorized to be appropriated for the fiscal year 1969, $6,500,000; and for the fiscal year 1970 not to exceed $10,000,000; and for the fiscal year 1971 not to exceed $25,000,000 to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in schools. Appropriations and expenditures for this chapter shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

(b) Apportionment of funds to States.

Of the funds appropriated for the purposes of this section, the Secretary shall for each fiscal year, (1) apportion $2,600,000 equally among the States other than Guam, the Virgin Islands, and American Samoa, and $45,000 equally among Guam, the Virgin Islands, and American Samoa, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 1753 of this title.

(c) Disbursement of apportioned funds by State; preference for schools in poor economic areas and for students traveling long distances daily.

Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency, to reimburse such schools for the cost of obtaining agricultural and other foods for consumption by needy children in a breakfast program and for the purpose of subsection (d) of this section. Such food costs may include, in addition to the purchase price, the cost of processing, distributing, transporting, storing, and handling. Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist and to those schools to which a substantial proportion of the children enrolled must travel long distances daily.

(d) Increased financial assistance in cases of severe need.

In circumstances of severe need where the rate per meal established by the Secretary is deemed by him insufficient to carry on an effective breakfast program in a school, the Secretary may authorize financial assistance up to 80 per centum of the operating costs of such a program, including cost of obtaining, preparing, and serving food. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance.

(e) Nutritional requirements; limitation of recipient children to children unable to pay full cost; overt identification.

Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served without cost or at a reduced cost only to children who are determined by local school authorities to be unable to pay the full cost of the breakfast. In making such determinations, such local authorities should, to the extent practicable, consult with public welfare and health agencies. No physical segregation of or other discrimination against any child shall be made by the school because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means.

(f) Nonprofit private schools.

The withholding of funds for and disbursement to nonprofit private schools will be effected in accordance with section 1759 of this title, exclusive of the matching provisions thereof. (Pub. L. 89–642, § 4, Oct. 11, 1966, 80 Stat. 886; Pub. L. 90–302, § 5, May 8, 1968, 82 Stat. 119; Pub. L. 91–248, §§ 6(d), 10, May 14, 1970, 84 Stat. 210, 214.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–248, § 10, substituted "$25,000,000" for "$12,000,000".

Subsec. (e). Pub. L. 91–248, § 6(d), provided that there be no overt identification of those children who receive free and reduced price meals.

1968—Subsec. (a). Pub. L. 90–302 added authorization to appropriate $6,500,000 for fiscal year 1969, not to exceed $10,000,000 for fiscal year 1970, and not to exceed $12,000,000 for fiscal year 1971, struck out references to authorization for fiscal years 1967 and 1968 and to pilot programs conducted on a nonpartisan basis, and added provision that appropriations and expenditures for this

chapter be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1759a, 1775, 1776, 1777, 1780 of this title.

§ 1774. Nonfood assistance program.

(a) Establishment; equipment required for food service programs; authorization of appropriations.

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed $38,000,000, for the fiscal year ending June 30, 1972, not to exceed $33,000,000, for the fiscal year ending June 30, 1973, not to exceed $15,000,000, and for each succeeding fiscal year, not to exceed $10,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this chapter and in the National School Lunch Act, as amended, and in the event such equipment is no longer so used, it may be transferred to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

(b) Apportionment of funds to States.

The Secretary shall apportion 50 per centum of the funds appropriated for the purposes of this section among the States during each fiscal year on the same basis as apportionments are made under section 1753 of this title for supplying agricultural and other foods. The remaining funds appropriated for the purposes of this section shall be apportioned to each State on the basis of the ratio between the number of children enrolled in schools without a food service in such State and the number of children enrolled in schools without a food service in all States. Payments to any State of funds apportioned for any fiscal year shall be made upon condition that at least one-fourth of the cost of any equipment financed under this subsection shall be borne by State or local funds.

(c) Disbursement of apportioned funds by State; determination of need; approval of plans.

Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist schools, which draw attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate, equipment, to conduct a school food service program, and to acquire such equipment. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the school to finance the food service equipment needed. Disbursements to any school may be made, by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs of children in the school.

(d) Nonprofit private schools.

The withholding of funds for and disbursement to nonprofit private schools will be effected in accordance with section 1759 of this title, exclusive of the matching provision thereof. (Pub. L. 89–642, § 5, Oct. 11, 1966, 80 Stat. 887; Pub. L. 91–248, § 2, May 14, 1970, 84 Stat. 208.)

REFERENCES IN TEXT

The National School Lunch Act, as amended, referred to in subsec. (a), is classified to chapter 13 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–248 substituted appropriations not to exceed $38,000,000 for the fiscal year ending June 30, 1971, $33,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year not to exceed $10,000,000 for appropriations not to exceed $12,000,000 for the fiscal year ending June 30, 1967, $15,000,000 for the fiscal year ending June 30, 1968, $18,000,000 for the fiscal years ending June 30, 1969 and June 30, 1970, and for each succeeding fiscal year such sums as Congress may authorize.

Subsec. (b). Pub. L. 91–248 substituted provisions that half of the nonfood assistance funds be apportioned to each State upon the basis of its participation rate multiplied by its assistance need rate for provisions under which all of the nonfood assistance funds were apportioned on this basis and added a provision apportioning half the funds on the basis of the number of children enrolled in schools without a food service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1775, 1776, 1780 of this title.

§ 1775. Certification to Secretary of the Treasury of amounts to be paid to States.

The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 1772 through 1776 of this title and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified. (Pub. L. 89–642, § 6, Oct. 11, 1966, 80 Stat. 888.)

§ 1776. State administrative expenses.

The Secretary may utilize funds appropriated under this section for advances to each State educational agency for use for its administrative expenses or for the administrative expenses of any other designated State agency in supervising and giving technical assistance to the local school districts and service institutions in their conducting of programs under this chapter and under sections 1759a and 1761 of this title. Such funds shall be advanced only in amounts and to the extent determined necessary by the Secretary to assist such State agencies in the administration of additional activities undertaken by them under sections 1759a, 1761, 1773, and 1774 of this title. There are hereby authorized to be appropriated such sums as may be necessary for

the purposes of this section. (Pub. L. 89-642, § 7, Oct. 11, 1966, 80 Stat. 888; Pub. L. 90-302, § 4, May 8, 1968, 82 Stat. 119; Pub. L. 91-248, § 5, May 14, 1970, 84 Stat. 210.)

AMENDMENTS

1970—Pub. L. 91-248 added provisions authorizing Secretary to utilize funds appropriated under this section for advances for administrative expenses of any other designated State agency as well as for those of the State educational agency and in the case of either State agency, for its administrative expenses in supervising and giving technical assistance to service institutions as well as to local school districts.

1968—Pub. L. 90-302 added the programs under sections 1759a and 1761 of this title to the enumeration of programs in which appropriated funds could be used for administrative expenses of local school districts in supervising and giving technical assistance and added section 1761 to the enumeration of sections covering programs of additional activities under which funds could be advanced only in amounts and to the extent determined necessary by the Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1775 of this title.

§ 1777. Use in school breakfast program of food designated as being in abundance or food donated by the Secretary of Agriculture.

Each school participating under section 1773 of this title shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 1431 of Title 7 or purchased under sections 612c or 1446a-1 of Title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this chapter. (Pub. L. 89-642, § 8, Oct. 11, 1966, 80 Stat. 888.)

§ 1778. Nonprofit programs.

The food and milk service programs in schools and nonprofit institutions receiving assistance under this chapter shall be conducted on a nonprofit basis. (Pub. L. 89-642, § 9, Oct. 11, 1966, 80 Stat. 888.)

§ 1779. Rules and regulations; transfer of funds from one program to another; special projects.

The Secretary shall prescribe such regulations as he may deem necessary to carry out this chapter and the National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this chapter and the National School Lunch Act. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this chapter and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects. (Pub. L. 89-642, § 10, Oct. 11, 1966, 80 Stat. 889; Pub. L. 91-248, § 8, May 14, 1970, 84 Stat. 212.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in text is Act June 4, 1946, c. 281, 60 Stat. 230, and is classified to chapter 13 of this title.

AMENDMENTS

1970—Pub. L. 91-248 provided that regulations under this chapter and under the National School Lunch Act may include provisions relating to the service of food in participating schools and service institutions in competition with programs under this chapter and the National School Lunch Act, provded for transfer of funds by any State between programs authorzed under this chapter and under the National School Lunch Act, and provided for a reserve of up to one percent of the funds available for apportionment to any State to carry out special development projects.

§ 1780. Prohibition against interference with school personnel, curriculum, or instruction; prohibition against inclusion of assistance in determining income or resources for purposes of taxation, welfare, or public assistance programs.

(a) In carrying out the provisions of sections 1772 through 1774 of this title, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this chapter shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this chapter. (Pub. L. 89-642, § 11, Oct. 11, 1966, 80 Stat. 889.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1717.

§ 1781. Preschool programs.

The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system. (Pub. L. 89-642, § 12, Oct 11, 1966, 80 Stat. 889.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1717.

§ 1782. Centralization in Department of Agriculture of administration of food service programs for children.

Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this chapter and the National School Lunch Act. (Pub. L. 89-642, § 13, Oct. 11, 1966, 80 Stat. 889.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in the text, is classified to chapter 13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1717.

§ 1783. Authorization of appropriations to the Secretary of Agriculture for administrative expenses.

There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under this chapter. (Pub. L. 89-642, § 14, Oct. 11, 1966, 80 Stat. 889.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1717.

§ 1784. Definitions.

For the purposes of this chapter—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c) "Nonprofit private school" means any private school exempt from income tax under section 501(c)(3) of Title 26.

(d) "School" means any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico.

(e) "Secretary" means the Secretary of Agriculture.

(Pub. L. 89-642, § 15, Oct. 11, 1966, 80 Stat. 889.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1717.

§ 1785. Accounts and records; availability for inspection.

States, State educational agencies, schools, and nonprofit institutions participating in programs under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this chapter and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary. (Pub. L. 89-642, § 16, Oct. 11, 1966, 80 Stat. 890.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1717.

Chapter 14.—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

§§ 1801 to 1819. Transferred.

CODIFICATION

The Atomic Energy Act of 1946, as amended, act Aug. 1, 1946, ch. 724, 60 Stat. 755, formerly classified to sections 1801—1819 of this title, was completely amended by act Aug. 30, 1954, ch. 1073, 68 Stat. 919, to read as follows: "Atomic Energy Act of 1954", which is classified to chapter 23 of this title.

Sections of act Aug. 1, 1946, are now covered by sections of act Aug. 30, 1954, as follows:

Sections	*Sections*
1801	2011—2013
1802	2031—2038
1803	2051—2053
1804, 1805	2061—2112
1806	2121—2122
1807	2131—2140
1808	2151—2154
1809	2015—2208
1810	2161—2166
1811	2181—2190
1812	2201—2209
1813	2221—2224
1814	2231—2239
1815	2251—2257
1816	2271—2281
1817	2016
1818	2014
1819	2017

AMENDMENTS TO 1946 ACT

Section 1802 amended July 3, 1948, ch. 828, 62 Stat. 1259; Oct. 11, 1949, ch. 673, §§ 1—3, 63 Stat. 762; Sept. 23, 1950, ch. 1000, §§ 1, 2, 64 Stat. 979; July 31, 1953, ch. 283, § 1, 67 Stat. 240.

Section 1805 amended Oct. 30, 1951, ch. 633, 65 Stat. 692; Aug. 31, 1954, ch. 730, § 10 (a—c), 68 Stat. 715.

Section 1809 amended Aug. 13, 1953, ch. 432, § 1, 67 Stat. 575.

Section 1810 amended Oct. 30, 1951, ch. 633, 65 Stat. 692; Apr. 5, 1952, ch. 159, § 1, 66 Stat. 43; July 31, 1953, ch. 283, §§ 2—5, 67 Stat. 240.

Section 1812 amended Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; July 17, 1953, ch. 228, § 1, 67 Stat. 181; July 31, 1953, ch. 283, §§ 6, 7, 67 Stat. 241.

Section 1815 amended Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972; July 31, 1953, ch. 283, § 8, 67 Stat. 241.

Chapter 15.—DISASTER RELIEF

SUBCHAPTER I.—FEDERAL ASSISTANCE PROGRAMS

§§ 1851 to 1854. Repealed. Sept. 30, 1950, ch. 1125 § 9, 64 Stat. 1111.

Sections, act July 27, 1947, ch. 320, 61 Stat. 422, related to availability of surplus property for alleviation of damage caused by floods or other catastrophe, and are now covered by sections 1855—1855g of this title.

§§ 1855 to 1855g. Repealed. Pub. L. 91-606, title III, § 302(1), Dec. 31, 1970, 84 Stat. 1759.

Section 1855, act Sept. 30, 1950, ch. 1125 § 1, 64 Stat. 1109, set out the Congressional declaration of intent in enacting the act of Sept. 30, 1950, covering major disasters. See chapter 58 of this title.

Section 1855a, acts Sept. 30, 1950, ch. 1125, § 2, 64 Stat. 1109; June 27, 1962, Pub. L. 87-502, § 1, 76 Stat. 111; Nov. 6, 1966, Pub. L. 89-769, § 6(a), 80 Stat. 1317, defined the terms "major disasters", "United States", "State", "governor", "local government", and "Federal agency".

Section 1855b, acts Sept. 30, 1950, ch. 1125, § 3, 64 Stat. 1110; Aug. 3, 1951, ch. 293, § 2, 65 Stat. 173; July 17, 1953, ch. 255, 67 Stat. 180; June 27, 1962, Pub. L. 87-502, § 2, 76 Stat. 111, authorized and directed Federal agencies to render assistance in the event of major disasters.

Section 1855c, act Sept. 30, 1950, ch. 1125, § 4, 64 Stat. 1110, directed Federal agencies to cooperate with each other and with other agencies in providing assistance.

Section 1855d, act Sept. 30, 1950, ch. 1125, § 5, 64 Stat. 1110, directed the President to coordinate disaster assistance and to issue rules and regulations covering disaster relief.

Section 1855e, act Sept. 30, 1950, ch. 1125, § 6, 64 Stat. 1111, dealt with the repair and reconstruction of damaged United States facilities.

Section 1855f, act Sept. 30, 1950, ch. 1125, § 7, 64 Stat. 1111, provided for the utilization of services and facilities of other agencies, employment of temporary personnel, incurring of obligations, and reimbursements.

Section 1855g, act Sept. 30, 1950, ch. 1125, § 8, 64 Stat. 1111, authorized an appropriation of $5,000,000 and required by the President to submit a report to Congress at the beginning of each session covering the expenditure of amounts appropriated.

EFFCTIVE DATE OF REPEAL

Repeal by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

SUBCHAPTER II.—ADJUSTMENT AND COORDINATION OF FEDERAL PROGRAMS

§§ 1855aa to 1855ii. Repealed. Pub. L. 91-606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759.

Section 1855aa, Pub. L. 89-769, § 2, Nov. 6, 1966, 80 Stat. 1316, defined the term "major disaster." See chapter 58 of this title.

Pub. L. 89-769, §§ 1, 14, Nov. 6, 1966, 80 Stat. 1316, 1321, set out as notes under former section 1855aa of this title, gave the name "Disaster Relief Act of 1966" to Pub. L. 89-769, and provided for the effective date of such act.

Section 1855bb, Pub. L. 89-769, § 3(a), Nov. 6, 1966, 80 Stat. 1316, called for the rescheduling and refinancing of federal loans in event of a major disaster. See section 4455 of this title.

Section 1855cc, Pub. L. 89-769, § 5, Nov. 6, 1966, 80 Stat. 1317, authorized the Secretary of Defense to make available the facilities of the civil defense communications system in case of imminent natural disasters.

Section 1855dd, Pub. L. 89-769, § 8, Nov. 6, 1966, 80 Stat. 1320, set out the order of priorities to be followed in processing applications for public facility and public housing assistance in major disaster areas.

Section 1855ee, Pub. L. 89-769, § 9, Nov. 6, 1966, 80 Stat. 1320, provided for the reinbursement of costs of reconstruction of public facilities, eligible costs, and agencies and parties entitled to reimbursement.

Section 1855ff, Pub. L. 89-769, § 10, Nov. 6, 1966, 80 Stat. 1320, directed department heads to administer programs covering major disasters so that there is no duplication of efforts between the various programs.

Section 1855gg, Pub. L. 89-769, § 11, Nov. 6, 1966, 80 Stat. 1321, provided for the extension of time to leaseholders, etc., of public lands in disaster areas.

Section 1855hh, Pub. L. 89-769, § 12, Nov. 6, 1966, 80 Stat. 1321, directed the President to coordinate and review all assistance programs.

Section 1855ii, Pub. L. 89-769, § 13, Nov. 6, 1966, 80 Stat. 1321, called for a study of air operation facilities for disaster assistance and for a report of the findings of such study to Congress with recommendations by May 6, 1967.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

SUBCHAPTER III.—ADDITIONAL FEDERAL ASSISTANCE PROGRAMS

§§ 1855aaa to 1855nnn. Repealed. Pub. L. 91-606, title III, § 302(3), Dec. 31, 1970, 84 Stat. 1759.

Section 1855aaa, Pub. L. 91-79, § 1, Oct. 1, 1969, 83 Stat. 125, set out the Congressional statement of policy in enacting Pub. L. 91-79.

Pub. L. 91-79, § 16, Oct. 1, 1969, 83 Stat. 125, set out as a note under former section 1855aaa of the title, gave the name "Disaster Relief Act of 1969" to Pub. L. 91-79.

Section 1855bbb, Pub. L. 91-79, § 2, Oct. 1, 1969, 83 Stat. 126, authorized the President to allocate funds for the permanent repair and reconstruction of non-federal streets, roads, and highway facilities destroyed or damaged as a result of a major disaster.

Section 1855ccc, Pub. L. 91-79, § 3, Oct. 1, 1969, 83 Stat. 126, covered the allowable alterations in timber sales contracts between the Secretary of Agriculture or the Secretary of Interior and a timber purchaser in the event of a major disaster causing major physical changes.

Section 1855ddd, Pub. L. 91-79, § 4, Oct. 1, 1969, 83 Stat. 126, authorized the Secretary of the Interior to give public land entrymen additional time to comply with requirements of law.

Section 1855eee, Pub. L. 91-79, § 6, Oct. 1, 1969, 83 Stat. 127, made provision for Small Business Administration disaster loans.

Section 1855fff, Pub. L. 91-79, § 7, Oct. 1, 1969, 83 Stat. 127, provided for emergency farm loans by the Secretary of Agriculture.

Section 1855ggg, Pub. L. 91-79, § 8, Oct. 1, 1969, 83 Stat. 128, provided for the development of State disaster relief programs, the development of State agencies to administer disaster relief programs, and reports to Congress.

Section 1855hhh, Pub. L. 91-79, § 9, Oct. 1, 1969, 83 Stat. 128, made provision for the appointment and duties of a Federal coordinating officer to operate under the Office of Emergency Preparedness in any area designated a major disaster area.

Section 1855iii, Pub. L. 91-79, § 10, Oct. 1, 1969, 83 Stat. 128, authorized the President to provide on a temporary basis dwelling accommodations for individuals and families displaced by a major disaster.

Section 1855jjj, Pub. L. 91-79, § 11, Oct. 1, 1969, 83 Stat. 129, authorized the President to set up a food stamp and surplus commodities program to distribute food to persons in low-income households unable to purchase food as the result of a major disaster.

Section 1855kkk, Pub. L. 91-79, § 12, Oct. 1, 1969, 83 Stat. 129, provided for unemployment assistance to persons unemployed as the result of a major disaster.

Section 1855*lll*, Pub. L. 91-79, § 13, Oct. 1, 1969, 83 Stat. 129, covered grants and loans for funds used in the suppression of fire on forest or grass lands which threatens destruction as to constitute a major disaster.

Section 1855mmm, Pub. L. 91-79, § 14, Oct. 1, 1969, 83 Stat. 130, authorized grants for the removal of debris.

Section 1855nnn, Pub. L. 91-79, § 15, Oct. 1, 1969, 83 Stat. 130, defined the term "major disaster" and provided for the termination date of sections 1855aaa et seq. of this title on Dec. 31, 1970.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

Chapter 15A.—RECIPROCAL FIRE PROTECTION AGREEMENTS

Sec.
1856. Definitions.
1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements.
1856b. Emergency assistance.
1856c. Service in line of duty.
1856d. Funds.

§ 1856. Definitions.

As used in this chapter—

(a) The term "agency head" means the head of any executive department, military department, agency, or independent establishment in the executive branch of the Government;

(b) The term "fire protection" includes personal services and equipment required for fire prevention, the protection of life and property from fire, and fire fighting; and

(c) The term "fire organization" means any governmental entity or public or private corporation or association maintaining fire protection facilities within the United States, its Territories and possessions, and any governmental entity or public or private corporation or association which maintains fire protection facilities in any foreign country in the vicinity of any installation of the United States. (May 27, 1955, ch. 105, § 1, 69 Stat. 66.)

§ 1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements.

(a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

(b) Any agreement heretofore executed which would have been authorized by this chapter, if this chapter had been in effect on the date of execution thereof, is ratified and confirmed. (May 27, 1955, ch. 105, § 2, 69 Stat. 66.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1856b, 1856c of this title.

§ 1856b. Emergency assistance.

In the absence of any agreement authorized or ratified by section 1856a of this title, each agency head is authorized to render emergency assistance in extinguishing fires and in preserving life and property from fire, within the vicinity of any place at which such agency maintains fire-protection facilities, when the rendition of such assistance is determined, under regulations prescribed by the agency head, to be in the best interest of the United States. (May 27, 1955, ch. 105, § 3, 69 Stat. 67.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1856c of this title.

§ 1856c. Service in line of duty.

Any service performed under section 1856a or section 1856b of this title, by any officer or employee of the United States or any member of any armed force of the United States shall constitute service rendered in line of duty in such office, employment, or force. The performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of the Federal Employees' Compensation Act, as amended. (May 27, 1955, ch. 105, § 4, 69 Stat. 67.)

REFERENCES IN TEXT

The Federal Employees' Compensation Act, referred to in the text, is classified to chapter 81 of Title 5, Government Organization and Employees.

§ 1856d. Funds.

Funds available to any agency head for fire protection on installations or in connection with activities under the jurisdiction of such agency may be used to carry out the purposes of this chapter. All sums received by any agency head for fire protection rendered pursuant to this chapter shall be covered into the Treasury as miscellaneous receipts. (May 27, 1955, ch. 105, § 5, 69 Stat. 67.)

Chapter 15B.—AIR POLLUTION CONTROL

SUBCHAPTER I.—AIR POLLUTION PREVENTION AND CONTROL

Sec.
1857. Congressional findings; purposes of subchapter.
1857a. Cooperative activities.
(a) Interstate cooperation; uniform State laws; State compacts.
(b) Federal cooperation.
(c) Consent of Congress to compacts.
1857b. Research, investigations, training, and other activities.
(a) Research and development program for prevention and control of air pollution.
(b) Availability of information and recommendations; cooperative activities; research grants, etc.; contract; training; fellowships; collection and dissemination of basic data on chemical, physical and biological effects of air quality; process, method and device development.
(c) Results of other scientific studies.
(d) Construction of facilities.
(e) Potential air pollution problems; conferences; findings and recommendations of Administrator.
(f) Accelerated research program on short- and long-term effects of air pollutants; conduct of studies, utilization of facilities, and consultations; duration of contracts; authorization of appropriations.
1857b–1. Research relating to fuels and vehicles.
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(b) Powers of Administrator in establishing research and development programs.
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1857c. Grants for support of air pollution planning and control programs.
(a) Amounts; limitations; assurances of plan development capability.
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(c) State expenditure limitation.
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(a) Responsibility of State for air quality; submission of implementation plan.
(b) Designated regions.
(c) Authority of Administrator to designate regions; notification of Governors of affected States.
1857c–3. Air quality criteria and control techniques.
(a) Air pollutant list; publication and revision by Administrator; issuance of air quality criteria for air pollutants.
(b) Issuance by Administrator of information on air pollution control techniques; standing consulting committees for air pollutants; establishment; membership.
(c) Review, modification, and reissuance by Administrator.
(d) Publication in Federal Register; availability of copies for general public.
1857c–4. National primary and secondary ambient air quality standards; promulgation; procedure.

Sec.
1857c–5. State implementation plans for national primary and secondary ambient air quality standards.
(a) Submission to Administrator; time for submission; State procedures; required contents of plans for approval by Administrator; approval of revised plan by Administrator.
(b) Extension of period for submission of plan implementing national secondary ambient air quality standard.
(c) Preconditions for preparation and publication by Administrator of proposed regulations setting forth an implementation plan; hearings for proposed regulations; promulgation of regulations by Administrator.
(d) Applicable implementation plan.
(e) Extension of time period for attainment of national primary ambient air quality standard in implementation plan; procedure; approval of extension by Administrator.
(f) Postponement of compliance by any stationary source or class of moving sources with any requirement of an applicable implementation plan; application by Governor of affected State; determination by Administrator; notice and opportunity for hearing; judicial review; precedence of cases; subpenas.
1857c–6. Standards of performance for new stationary sources.
(a) Definitions.
(b) Publication and revision by Administrator of list of categories of stationary sources; inclusion of category in list; proposal of regulations by Administrator establishing standards for new sources within category; promulgation and revision of standards; differentation within categories of new sources; issuance of information on pollution control techniques; applicability to new sources owned or operated by United States.
(c) Implementation and enforcement by State; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected.
(d) Emission standards for any existing source for any air pollutant; submission of State plan to Administrator establishing, implementing and enforcing standards; authority of Administrator to prescribe State plan; authority of Administrator to enforce State plan; procedure.
(e) Prohibited acts.
1857c–7. National emission standards for hazardous air pollutants.
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(c) Prohibited acts; exemption by President for any stationary source; duration and extension of exemption; report to Congress.
(d) Implementation and enforcement by State of standards for stationary sources; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected.
Sec.
1857c–8. Federal enforcement procedures.
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(d) Attendance at conference; Federal report of matters before conference; notification of date of conference; presentation of views; transcript of proceedings; summary.
(e) Recommendations of Administrator for remedial action by agencies; commencement of recommended action.
(f) Hearings for failure to abate pollution; board members; findings and recommendations.
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(h) Federal court proceedings; evidence; jurisdiction of court.
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(b) Duties of Board.
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SUBCHAPTER II.—EMISSION STANDARDS FOR MOVING SOURCES

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(b) Model year 1975, reduction requirement; model year 1976, reduction requirement; promulgation; report to Congress; suspension of standards; interim standards.
(c) Feasibility study and investigation by National Academy of Sciences; reports to Administrator and Congress; availability of information.
(d) Useful life of vehicles.
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Sec.
1857f–2. Prohibited acts.
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1857f–3. Jurisdiction of district court to restrain violations; actions brought by or in name of United States; territorial scope of subpenas for witnesses.
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(c) Nonconforming vehicles; plan for remedying nonconformity; instructions for maintenance and use.
(d) Dealer costs borne by manufacturer.
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1857f–6e. Low-emission vehicles.
(a) Definitions.
(b) Low-Emission Vehicle Certification Board; establishment; composition; appointment; Chairman; compensation; travel expenses; employment and compensation of additional personnel; time and place of meetings; powers.
(c) Determination by Administrator of models or classes of motor vehicles qualifying as low-emission vehicles.
(d) Certification by Board; specifications for suitable substitutes; criteria for certification; term of certification; procedure for certification.
(e) Acquisition by Federal government by purchase or lease; procurement costs; contract provisions.
(f) Priority for purchase by procuring agency.
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(h) Testing of emissions from certified low-emission vehicles purchased by the Federal government; procedure; recertification.

Sec.
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PART B.—AIRCRAFT EMISSION STANDARDS

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SUBCHAPTER IV.—NOISE POLLUTION

1858. Office of Noise Abatment and Control; investigation and study of noise and its effects on the public health and welfare; report and recommendations by December 31, 1971.
1858a. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 26 sections 48, 169.

SUBCHAPTER I.—AIR POLLUTION PREVENTION AND CONTROL

§ 1857. Congressional findings; purposes of subchapter.

(a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation;

(3) that the prevention and control of air pollution at its source is the primary responsibility of States and local governments; and

(4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution.

(b) The purposes of this subchapter are—

(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

(4) to encourage and assist the development and operation of regional air pollution control programs.

(July 14, 1955, ch. 360, title I, § 101, formerly § 1, as added Dec. 17, 1963, Pub. L. 88–206, § 1, 77 Stat. 392, amended and renumbered Oct. 20, 1965, Pub. L. 89–272, title I, § 101(2), (3), 79 Stat. 992; Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 485.)

CODIFICATION

Provisions similar to those comprising this section were contained in a prior section 1857, act of July 14, 1955, ch. 360, § 1, 69 Stat. 322, prior to the general amendment of this chapter by Pub. L. 88–206.

AMENDMENTS

1967—Subsec. (b)(1). Pub. L. 90–148 inserted "and enhance the quality of" following "to protect".

1965—Subsec. (b). Pub. L. 89–272 substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter."

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90–148 provided: "That this Act [amending this chapter generally] may be cited as the 'Air Quality Act of 1967'."

SHORT TITLE

Section 317, formerly section 14, of Act July 14, 1955, as added by section 1 of Pub. L. 88–206, renumbered section 307 by section 101(4) of Pub. L. 89–272, renumbered section 310 by section 2 of Pub. L. 90–148, and renumbered section 317 by Pub. L. 91–604, § 12(a), Dec. 31, 1970, 84 Stat. 1705, provided that: "That Act [this chapter] may be cited as the 'Clean Air Act'."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

EXECUTIVE ORDER NO. 10779

Ex. Ord. No. 10779, Aug. 21, 1958, 23 F.R. 6487, which related to cooperation of Federal agencies with State and local authorities, was superseded by Ex. Ord. No. 11282, May 26, 1966, 31 F.R. 7663, set out as a note under section 1857f of this title.

PREVENTION, CONTROL, AND ABATEMENT AT FEDERAL FACILITIES

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of air pollution at federal facilities.

NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

For provisions relating to the establishment of the National Industrial Pollution Control Council, see Ex. Ord. No. 11523, Apr. 9, 1970, 35 F.R. 5993, set out as a note under section 4321 of this title.

§ 1857a. Cooperative activities.

(a) Interstate cooperation; uniform State laws; State compacts.

The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

(b) Federal cooperation.

The Administrator shall cooperate with and encourage cooperative activities by all Federal departments and agencies having functions relating to the prevention and control of air pollution, so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government.

(c) Consent of Congress to compacts.

The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress. It is the intent of Congress that no agreement or compact entered into between States after November 2, 1967, which relates to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region. (July 14, 1955, ch. 360, title I, § 102, formerly § 2, as added Dec. 17, 1963,

Pub. L. 88–206, § 1, 77 Stat. 393, renumbered Oct. 20, 1965, Pub. L. 89–272, title I, § 101(3), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 485; Dec. 31, 1970, Pub. L. 91–604, § 15(c)(2), 84 Stat. 1713.)

CODIFICATION

Provisions similar to those comprising the first clause of subsec. (a) of this section were contained in subsec. (b)(1) of a prior section 1857a, act July 14, 1955, ch. 360, § 2, 69 Stat. 322, prior to the general amendment of this chapter by Pub. L. 88–206.

Such prior section 1857a also related to research programs, joint investigations and powers of Surgeon General. See section 1857b of this title.

AMENDMENTS

1970—Subsecs. (a), (b). Pub. L. 91–604 substituted "Administrator" for "Secretary" wherever appearing therein.

1967—Subsec. (c). Pub. L. 90–148 added declaration that it is the intent of Congress that no agreement or compact entered into between States after the date of enactment of the Air Quality Act of 1967, which for purposes of codification was changed to November 21, 1967, the date of approval of such Act, relating to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857b. Research, investigations, training, and other activities.

(a) Research and development program for prevention and control of air pollution.

The Administrator shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution;

(2) encourage, cooperate with, and render technical services and provide financial assistance to air pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals in the conduct of such activities;

(3) conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the pollution is located;

(4) establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research.

(b) Availability of information and recommendations; cooperative activities; research grants, etc.; contract; training; fellowships; collection and dissemination of basic data on chemical, physical and biological effects of air quality; process, method and device development.

In carrying out the provisions of the preceding subsection the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

(2) cooperate with other Federal departments and agencies, with air pollution control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities;

(3) make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in subsection (a)(1) of this section;

(4) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to section 529 of Title 31 and section 5 of Title 41;

(5) provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications;

(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

(7) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying air quality and other information pertaining to air pollution and the prevention and control thereof; and

(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of air pollution.

(c) Results of other scientific studies.

In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known air pollutants.

(d) Construction of facilities.

The Administrator is authorized to construct such facilities and staff and equip them as he determines to be necessary to carry out his functions under this chapter.

(e) Potential air pollution problems; conferences; findings and recommendations of Administrator.

If in the judgment of the Administrator, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, he may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Administrator. If the Administrator finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under section 1857 of this title, he shall send such findings, together with recommendations concerning the measures which he finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (b), (c), (d), (e), and (f) of section 1857d of this title.

(f) Accelerated research program on short- and long-term effects of air pollutants; conduct of studies, utilization of facilities, and consultations; duration of contracts; authorization of appropriations.

(1) In carrying out research pursuant to this chapter, the Administrator shall give special emphasis to research on the short- and long-term effects of air pollutants on public health and welfare. In the furtherance of such research, he shall conduct an accelerated research program—

(A) to improve knowledge of the contribution of air pollutants to the occurrence of adverse effects on health, including, but not limited to, behavioral, physiological, toxicological, and biochemical effects; and

(B) to improve knowledge of the short- and long-term effects of air pollutants on welfare.

(2) In carrying out the provisions of this subsection the Administrator may—

(A) conduct epidemiological studies of the effects of air pollutants on mortality and morbidity;

(B) conduct clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including carcinogenic, teratogenic, and mutagenic effects of air pollutants;

(C) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers;

(D) utilize the authority contained in paragraphs (1) through (4) of subsection (b) of this section; and

(E) consult with other appropriate Federal agencies to assure that research or studies conducted pursuant to this subsection will be coordinated with research and studies of such other Federal agencies.

(3) In entering into contracts under this subsection, the Administrator is authorized to contract for a term not to exceed 10 years in duration. For the purposes of this paragraph, there are authorized to be appropriated $15,000,000. Such amounts as are appropriated shall remain available until expended and shall be in addition to any other appropriations under this chapter. (July 14, 1955, ch. 360, title I, § 103, formerly § 3, as added Dec. 17, 1963, Pub. L. 88–206, § 1, 77 Stat. 394, amended and renumbered Oct. 20, 1965, Pub. L. 89–272, title I, §§ 101(3), 103, 79 Stat. 992, 996; Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 486; Dec. 31, 1970, Pub. L. 91–604, §§ 2(a), 4(2), 15(a)(2), (c)(2), 84 Stat. 1676, 1689, 1710, 1713.)

CODIFICATION

Provisions similar to those comprising subsec. (a)(3) of this section were contained in subsec. (a) of a prior section 1857b, act July 14, 1955, ch. 360, § 3, 69 Stat. 322, as amended Oct. 9, 1962, Pub. L. 87–761, § 2, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88–206.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 1857a—1857d, act July 14, 1955, ch. 360, §§ 2—5, 69 Stat. 322 (section 1857b as amended Oct. 9, 1962, Pub. L. 87–761, § 2, 76 Stat. 760; section 1857d as amended Sept. 22, 1959, Pub. L. 86–365, § 1, 73 Stat. 646 and Oct. 9, 1962, Pub. L. 87–761, § 1, 76 Stat. 760), prior to the general amendment of this chapter by Pub. L. 88–206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (b). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (c). Pub. L. 91–604, § 15(a)(2), (c)(2), substituted "Administrator" for "Secretary" and "air pollutants" for "air pollution agents (or combinations of agents)".

Subsec. (d). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91–604, §§ 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein, substituted "1857d" for "1857d(a)", and added references to subsecs. (b) and (c) of section 1857d of this title.

Subsec. (f). Pub. L. 91–604, § 2(a), added subsec. (f).

1967—Subsec. (a). Pub. L. 90–148 substituted "establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research" for "initiate and conduct a program of research directed toward the development of improved, low-cost techniques for extracting sulfer from fuels" as clause (4) and struck out clause (5) which related to research programs relating to the control of hydrocarbon emissions from evaporation of gasoline and nitrogen and aldehyde oxide emission from gasoline and diesel powered vehicles and relating to the development of improved low cost techniques to reduce emissions of oxides of sulfur produced by the combusion of sulfur-containing fuels.

Subsec. (c). Pub. L. 90–148 struck out provision for the promulgation of criteria in the case of particular air pollution agents present in the air in certain quantities reflecting the latest scientific knowledge and allowing for availability and revision and provided for the recommendation by the Secretary of air quality criteria.

Subsec. (e). Pub. L. 90–148 substituted references to subsections (d), (e), and (f) of section 1857d of this title for references to subsections (c), (d), and (e) of

section 1857d of this title in the provision for the admission of advisory findings and recommendations together with the record of the conference and made such findings and recommendations part of the proceedings of the conference, not merely part of the record of proceedings.

1965—Subsec. (a)(5). Pub. L. 89-272, § 103 (3), added par. (5).

Subsecs. (d), (e). Pub. L. 89-272, § 103(4), added subsecs. (d) and (e).

SHORT TITLE

Section 1 of Pub. L. 91-604 provided: "That this Act [amending this chapter generally] may be cited as the 'Clean Air Amendments of 1970'."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

STUDY OF SUBSTANCES DISCHARGED FROM EXHAUSTS OF MOTOR VEHICLES

Pub. L. 86-493, June 8, 1960, 74 Stat. 162, directed the Surgeon General of the Public Health Service to conduct a thorough study for the purposes of determining, with respect to the various substances discharged from the exhausts of motor vehicles, the amounts and kinds of such substances which, from the standpoint of human health, it is safe for motor vehicles to discharge into the atmosphere under the various conditions under which such vehicles may operate. Not later than two years after June 8, 1960, the Surgeon General was required to submit to Congress a report on the results of the study, together with such recommendations, if any, based upon the findings made in such study, as he deemed necessary for the protection of the public health.

§ 1857b-1. Research relating to fuels and vehicles.

(a) Research programs; grants; contracts; pilot and demonstration plants; byproducts research.

The Administrator shall give special emphasis to research and development into new and improved methods, having industry-wide application, for the prevention and control of air pollution resulting from the combustion of fuels. In furtherance of such research and development he shall—

(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques for—

(A) control of combustion byproducts of fuels,

(B) removal of potential air pollutants from fuels prior to combustion,

(C) control of emissions from the evaporation of fuels,

(D) improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and

(E) producing synthetic or new fuels which, when used, result in decreased atmospheric emissions.

(2) provide for Federal grants to public or nonprofit agencies, institutions, and organizations and to individuals, and contracts with public or private agencies, institutions, or persons, for payment of (A) part of the cost of acquiring, constructing, or otherwise securing for research and development purposes, new or improved devices or methods having industrywide application of preventing or controlling discharges into the air of various types of pollutants; (B) part of the cost of programs to develop low emission alternatives to the present internal combustion engine; (C) the cost to purchase vehicles and vehicle engines, or portions thereof, for research, development, and testing purposes; and (D) carrying out the other provisions of this section, without regard to section 529 of Title 31 and section 5 of Title 41: *Provided,* That research or demonstration contracts awarded pursuant to this subsection (including contracts for construction) may be made in accordance with, and subject to the limitations provided with respect to research contracts of the military departments in, section 2353 of Title 10, except that the determination, approval, and certification required thereby shall be made by the Secretary: *Provided further,* That no grant may be made under this paragraph in excess of $1,500,000;

(3) determine, by laboratory and pilot plant testing, the results of air pollution research and studies in order to develop new or improved processes and plant designs to the point where they can be demonstrated on a large and practical scale;

(4) construct, operate, and maintain, or assist in meeting the cost of the construction, operation, and maintenance of new or improved demonstration plants or processes which have promise of accomplishing the purposes of this chapter;

(5) study new or improved methods for the recovery and marketing of commercially valuable byproducts resulting from the removal of pollutants.

(b) Powers of Administrator in establishing research and development programs.

In carrying out the provisions of this section, the Administrator may—

(1) conduct and accelerate research and development of low-cost instrumentation techniques to facilitate determination of quantity and quality of air pollutant emissions, including, but not limited to, automotive emissions;

(2) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories;

(3) establish and operate necessary facilities and test sites at which to carry on the research, testing, development, and programming necessary to effectuate the purposes of this section;

(4) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, and facilities, and other property or rights by purchase, license, lease, or donation; and

(5) cause on-site inspections to be made of promising domestic and foreign projects, and cooperate and participate in their development in instances in which the purposes of the chapter will be served thereby.

(c) Authorization of appropriations.

For the purposes of this section there are authorized to be appropriated $75,00,000 for the fiscal year ending June 30, 1971, $125,000,000 for the fiscal year ending June 30, 1972, and $150,000,000 for the fiscal year ending June 30, 1973. Amounts appropriated pursuant to this subsection shall remain available until expended. (July 14, 1955, ch. 360, title I, § 104, as added Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 487, and amended Dec. 5, 1969, Pub. L. 91–137, 83 Stat. 283; Dec. 31, 1970, Pub. L. 91–604, §§ 2(b), (c), 13(a), 15(c)(2), 84 Stat. 1676, 1677, 1709, 1713.)

CODIFICATION

A prior section 104 of act July 14, 1955, was renumbered section 105 by Pub. L. 90–148 and is set out as section 1857c of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (a)(1). Pub. L. 91–604, § 2(b), added provisions authorizing research programs directed toward development of techniques for improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and producing synthetic or new fuels which result in decreased atmospheric emissions.

Subsec. (a)(2). Pub. L. 91–604, § 2(c), added cls. (B) and (C). Former cl. (B) was redesignated as (D).

Subsec. (b). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (c). Pub. L. 91–604, § 13(a), substituted provisions authorizing appropriations for fiscal years ending June 30, 1971, 1972, and 1973, for provisions authorizing appropriations for the fiscal years ending June 30, 1968 and 1969.

1969—Subsec. (c). Pub. L. 91–137 authorized appropriation of $45,000,000 for the fiscal year ending June 30, 1970.

EXTENSION TO AUG. 31, 1970, OF AUTHORIZATION PERIOD FOR FISCAL YEAR 1970

Pub. L. 91–316, July 10, 1970, 84 Stat. 416, provided in part that the authorization contained in section 104(c) of the Clean Air Act [subsec. (c) of this section] for the fiscal year ending June 30, 1970, should remain available through Aug. 31, 1970, notwithstanding any provisions of this section.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857c. Grants for support of air pollution planning and control programs.

(a) Amounts; limitations; assurances of plan development capability.

(1)(A) The Administrator may make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining, programs for the prevention and control of air pollution or implementation of national primary and seconadry ambient air quality standards.

(B) Subject to subparagraph (C), the Administrator may make grants to air pollution control agencies within the meaning of paragraph (1), (2), or (4) of section 1857h(b) of this title in an amount up to three-fourths of the cost of planning, developing, establishing, or improving, and up to three-fifths of the cost of maintaining, any program for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in an area that includes two or more municiplities, whether in the same or different States.

(C) With respect to any air quality control region or portion thereof for which there is an applicable implementation plan under section 1857c–5 of this title, grants under subparagraph (B) may be made only to air pollution control agencies which have substantial responsibilities for carrying out such applicable implementation plan.

(2) Before approving any grant under this subsection to any air pollution control agency within the meaning of sections 1857h(b)(2) and 1857h(b)(4) of this title, the Administrator shall receive assurances that such agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international, interests in the air quality control region.

(3) Before approving any planning grant under this subsection to any air pollution control agency within the meaning of sections 1857h(b)(2) and 1857h(b)(4) of this title, the Administrator shall receive assurances that such agency has the capability of developing a comprehensive air quality plan for the air quality control region, which plan shall include (when appropriate) a recommended system of alerts to avert and reduce the risk of situations in which there may be imminent and serious danger to the public health or welfare from air pollutants and the various aspects relevant to the establishment of air quality standards for such air quality control region, including the concentration of industries, other commercial establishments, population and naturally occurring factors which shall affect such standards.

(b) Terms and conditions; regulations; factors for consideration; expenditure and consultation requirements.

From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to air pollution control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purpose of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential air pollution problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for

such programs during the preceding fiscal year; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

(c) State expenditure limitation.

Not more than 10 per centum of the total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

(d) Reduction of payments; availability of reduced amounts; reduced amount as deemed paid to agency for purpose of determining amount of grant.

The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 1857g of this title, when such detail is for the convenience of, and at the request of, such recipient and for the purpose of carrying out the provisions of this chapter. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency. (July 14, 1955, ch. 360, title I, § 105, formerly § 4, as added Dec. 17, 1963, Pub. L. 88–206, § 1, 77 Stat. 395, amended and renumbered § 104, Oct. 20, 1965, Pub. L. 89–272, title I, § 101(2)—(4), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89–675, § 3, 80 Stat. 954, amended and renumbered § 105, Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 489; Dec. 31, 1970, Pub. L. 91–604, §§ 3(a), (b)(1), 15(c)(2), 84 Stat. 1677, 1713.)

CODIFICATION

A prior section 105 of act July 14, 1955, was renumbered section 108 by Pub. L. 90–148 and is set out as section 1857d of this title.

A prior section 1857c, act July 14, 1955, ch. 360, § 4, 69 Stat. 322, related to the preparation of reports and recommendations. See section 1857b(b)(1) of this section.

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in former section 1857d, act July 14, 1955, ch. 360, § 5, 69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86–365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87–761, § 1, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88–206.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91–604, § 3(a), substituted provisions authorizing the Administrator to make grants, for provisions authorizing the Secretary to make grants, and provisions authorizing grants for programs implementing national primary and secondary ambient air quality standards, for provisions authorizing grants for programs implementing air quality standards authorized by this subchapter, and added the provision requiring grants to air pollution control agencies be made to agencies having substantial responsibilities for carrying out the applicable implementation plan with respect to the air quality control region or portion thereof.

Subsecs. (a)(2), (3), (b), (c). Pub. L. 91–604, § 15(c)(2) substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (d). Pub. L. 91–604, § 3(b)(1), added subsec. (d).

1967—Subsec. (a). Pub. L. 90–148 designated existing provisions as par. (1), added pars. (2) and (3), and, in par. (1) as so designated, substituted "regional air quality control program" for "regional air pollution control program," added planning to the list of authorized activities, and added programs for the implementation of air quality standards authorized by this chapter to the list of authorized programs.

Subsec. (b). Pub. L. 90–148 made minor changes in the order of the provisions.

Subsec. (c). Pub. L. 90–148 reduced the percentage limitation on the portion of the total funds which might be granted for air pollution control programs in any one State from 12½ per centum to 10 per centum.

1966—Subsec. (a). Pub. L. 89–675, § 3(a)(1), struck out provisions limiting the available funds to 20 per centum of the sums appropriated annually for the purpose of this subchapter, inserted provisions allowing grants to air pollution control agencies up to one-half of the cost of maintaining programs for prevention and control of air pollution, and authorized the Secretary to make grants of up to three-fifths of the cost of maintaining regional air pollution control programs.

Subsec. (b). Pub. L. 89–675, § 3(a)(2), substituted reference to sums available "for the purpose of" subsection (a) of this section for reference to sums available "under" subsection (a) of this section, permitted grantees to reduce annual expenditures to the extent that nonrecurrent costs are involved for purposes of application of the provision that no agency may receive grants during any fiscal year when its expenditures of non-Federal funds for air pollution control programs are less than its expenditures for such programs during the preceding year, and added provisions insuring that Federal funds will in no event be used to supplant State or local government funds in maintaining air pollution control programs.

Subsec. (c). Pub. L. 89–675, § 3(b), substituted "total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs" for "grant funds available under subsection (a) of this section shall be expended" and authorized the Secretary to determine the portion of grants to interstate agencies to be charged against the twelve and one-half percent limitation of grant funds to any one State.

1965—Subsec. (a). Pub. L. 89–272 substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter", and "section 302(b) (2) and (4)" for "section 9(b) (2) and (4)", which for purposes of codification has been changed to "section 1857h(b) (2) and (4) of this title."

SHORT TITLE

Section 1 of Pub. L. 89–675 provided: "That this Act [amending this section and section 1857*l* of this title and repealing section 1857f–8 of this title] may be cited as the 'Clean Air Act Amendments of 1966'."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health,

Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857c-1. Interstate air quality agencies; program cost limitations.

For the purpose of developing implementation plans for any interstate air quality control region designated pursuant to seciton 1857c-2 of this title, the Administrator is authorized to pay, for two years, up to 100 per centum of the air quality planning program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors plans for implementation of national primary and secondary ambient air quality standards and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Administrator is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of any agency. (July 14, 1955, ch. 360, title I, § 106, as added Nov. 21, 1967, Pub .L. 90-148, § 2, 81 Stat. 490, and amended Dec. 31, 1970, Pub. L. 91-604, § 3(c), 84 Stat. 1677.)

CODIFICATION

A prior section 106 of act July 14, 1955, was renumbered section 110 by Pub. L. 90-148 and is set out as section 1857e of this title.

AMENDMENTS

1970—Pub. L. 91-604 struck out lettered designation "(a)", as so redesignated, substituted provisions authorizing Federal grants for the purpose of developing implementation plans and provisions requiring the designated State agency to be capable of recommending plans for implementation of national primary and secondary ambient air quality standards, for provisions authorizing Federal grants for the purpose of expediting the establishment of air quality standards and provisions requiring the designated State agency to be capable of recommending standards of air quality and plans for implementation thereof, respectively, and struck out subsec. (b) which authorized the establishment of air quality planning commissions.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857c-2. Air quality control regions.

(a) Responsibility of State for air quality; submission of implementation plan.

Each State shall have the primary responsibility for assuring air quality within the entire geographic area comprising such State by submitting an implementation plan for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in such State.

(b) Designated regions.

For purposes of developing and carrying out implementation plans under section 1857c-5 of this title—

(1) an air quality control region designated under this section before December 31, 1970, or a region designated after such date under subsection (c) of this section, shall be an air quality control region; and

(2) the portion of such State which is not part of any such designated region shall be an air quality control region, but such portion may be subdivided by the State into two or more air quality control regions with the approval of the Administrator.

(c) Authority of Administrator to designate regions; notification of Governors of affected States.

The Administrator shall, within 90 days after December 31, 1970, after consultation with appropriate State and local authorities, designate as an air quality control region any interstate area or major intrastate area which he deems necessary or appropriate for the attainment and maintenance of ambient air quality standards. The Administrator shall immediately notify the Governors of the affected States of any designation made under this subsection. (July 14, 1955, ch. 360, title I, § 107, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678.)

PRIOR PROVISIONS

A prior section 107 of act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 490, which also covered air quality control regions, was repealed by Pub. L. 91-604. The section 107 of act July 14, 1955, which formed part of that Act as originally enacted, was renumbered section 111 by Pub. L. 90-148 and again renumbered section 118 by Pub. L. 91-604, and is set out as section 1857f of this title.

§ 1857c-3. Air quality criteria and control techniques.

(a) Air pollutant list; publication and revision by Administrator; issuance of air quality criteria for air pollutants.

(1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after December 31, 1970, publish, and shall from time to time thereafter revise, a list which includes each air pollutant—

(A) which in his judgment has an adverse affect on public health or welfare;

(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

(C) for which air quality criteria had not been issued before December 31, 1970 but for which he plans to issue air quality criteria under this section.

(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on—

(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

(C) any known or anticipated adverse effects on welfare.

(b) Issuance by Administrator of information on air pollution control techniques; standing consulting committees for air pollutants; establishment; membership.

(1) Simultaneously with the issuance of criteria under subsection (a) of this section, the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include data relating to the technology and costs of emission control. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting committee for each air pollutant included in a list published pursuant to subsection (a) (1) of this section, which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the academic community. Each such committee shall submit, as appropriate, to the Administrator information related to that required by paragraph (1).

(c) Review, modification, and reissuance by Administrator.

The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section.

(d) Publication in Federal Register; availability of copies for general public.

The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public. (July 14, 1955, ch. 360, title I, § 108, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1678.)

CODIFICATION

A prior section 108 of act July 14, 1955, was renumbered section 115 by Pub. L. 91-604, and is set out as section 1857d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857e of this title.

§ 1857c-4. National primary and secondary ambient air quality standards; promulgation; procedure.

(a) (1) The Administrator—

(A) within 30 days after December 31, 1970, shall publish proposed regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria have been issued prior to such date; and

(B) after a reasonable time for interested persons to submit written comments thereon (but no later than 90 days after the initial publication of such proposed standards) shall by regulation promulgate such proposed national primary and secondary ambient air quality standards with such modifications as he deems appropriate.

(2) With respect to any air pollutant for which air quality criteria are issued after December 31, 1970, the Administrator shall publish, simultaneously with the issuance of such criteria and information, proposed national primary and secondary ambient air quality standards for any such pollutant. The procedure provided for in paragraph (1) (B) of this subsection shall apply to the promulgation of such standards.

(b) (1) National primary ambient air quality standards, prescribed under subsection (a) of this section shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

(2) Any national secondary ambient air quality standard prescribed under subsection (a) of this section shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated. (July 14, 1955, ch. 360, title I, § 109, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1679.)

CODIFICATION

A prior section 109 of act July 14, 1955, was renumbered section 116 by Pub. L. 91-604, and is set out as section 1857d-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857d of this title.

§ 1857c-5. State implementation plans for national primary and secondary ambient air quality standards.

(a) Submission to Administrator; time for submission; State procedures; required contents of plans for approval by Administrator; approval of revised plan by Administrator.

(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within nine months after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 1857c-4 of this title for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within nine months after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.

(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan, or any portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

(A) (i) in the case of a plan implementing a national primary ambient air quality standard, it provides for the attainment of such primary standard as expeditiously as practicable but (subject to subsection (e) of this section) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised primary standard); and (ii) in the case of a plan implementing a national secondary ambient air quality standard, it specifies a reasonable time at which such secondary standard will be attained;

(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls;

(C) it includes provision for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator;

(D) it includes a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply;

(E) it contains adequate provisions for intergovernmental cooperation, including measures necessary to insure that emissions of air pollutants from sources located in any air quality control region will not interfere with the attainment or maintenance of such primary or secondary standard in any portion of such region outside of such State or in any other air quality control region;

(F) it provides (i) necessary assurances that the State will have adequate personnel, funding, and authority to carry out such implementation plan, (ii) requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources, (iii) for periodic reports on the nature and amounts of such emissions; (iv) that such reports shall be correlated by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection; and (v) for authority comparable to that in section 1857h-1 of this title, and adequate contingency plans to implement such authority;

(G) it provides, to the extent necessary and practicable, for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards; and

(H) it provides for revision, after public hearings, of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of achieving such primary or secondary standard; or (ii) whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary or secondary standard which it implements.

(3) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings.

(4) The procedure referred to in paragraph (2) (D) for review, prior to construction or modification, of the location of new sources shall (A) provide for adequate authority to prevent the construction or modification of any new source to which a standard of performance under section 1857c-6 of this title will apply at any location which the State determines will prevent the attainment or maintenance within any air quality control region (or portion thereof) within such State of a national ambient air quality primary or secondary standard, and (B) require that prior to commencing construction or modification of any such source, the owner or operator thereof shall submit to such State such information as may be necessary to permit the State to make a determination under clause (A).

(b) Extension of period for submission of plan implementing national secondary ambient air quality standard.

The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

(c) Preconditions for preparation and publication by Administrator of proposed regulations setting forth an implementation plan; hearings for proposed regulations; promulgation of regulations by Administrator.

The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

(1) the State fails to submit an implementation plan for any national ambient air quality primary or secondary standard within the time prescribed,

(2) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

(3) the State fails, within 60 days after notification by the Administrator or such longer period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H) of this section.

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section.

(d) Applicable implementation plan.

For purposes of this chapter, an applicable implementation plan is the implementation plan, or most recent revision thereof, which has been approved under subsection (a) of this section or promulgated under subsection (c) of this section and which implements a national primary or secondary ambient air quality standard in a State.

(e) Extension of time period for attainment of national primary ambient air quality standard in implementation plan; procedure; approval of extension by Administrator.

(1) Upon application of a Governor of a State at the time of submission of any plan implementing a national ambient air quality primary standard, the Administrator may (subject to paragraph (2)) extend the three-year period referred to in subsection (a)(2)(A)(i) of this section for not more than two years for an air quality control region if after review of such plan the Administrator determines that—

(A) one or more emission sources (or classes of moving sources) are unable to comply with the requirements of such plan which implement such primary standard because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance within such three-year period, and

(B) The State has considered and applied as a part of its plan reasonably available alternative means of attaining such primary standard and has justifiably concluded that attainment of such primary standard within the three years cannot be achieved.

(2) The Administrator may grant an extension under paragraph (1) only if he determines that the State plan provides for—

(A) application of the requirements of the plan which implement such primary standard to all emission sources in such region other than the sources (or classes) described in paragraph (1)(A) within the three-year period, and

(B) such interim measures of control of the sources (or classes) described in paragraph (1)(A) as the Administrator determines to be reasonable under the circumstances.

(f) Postponement of compliance by any stationary source or class of moving sources with any requirement of an applicable implementation plan; application by Governor of affected State; determination by Administrator; notice and opportunity for hearing; judicial review; precedence of cases; subpenas.

(1) Prior to the date on which any stationary source or class of moving sources is required to comply with any requirement of an applicable implementation plan the Governor of the State to which such plan applies may apply to the Administrator to postpone the applicabiliy of such requirement to such source (or class) for not more than one year. If the Administrator determines that—

(A) good faith efforts have been made to comply with such requirement before such date,

(B) such source (or class) is unable to comply with such requirement because the necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time,

(C) any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health, and

(D) the continued operation of such source is essential to national security or to the public health or welfare,

then the Administrator shall grant a postponement of such requirement.

(2)(A) Any determination under paragraph (1) shall (i) be made on the record after notice to interested persons and opportunity for hearing, (ii) be based upon a fair evaluation of the entire record at such hearing, and (iii) include a statement setting forth in detail the findings and conclusions upon which the determination is based.

(B) Any determination made pursuant to this paragraph shall be subject to judicial review by the United States court of appeals for the circuit which includes such State upon the filing in such court within 30 days from the date of such decision of a petition by any interested person praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Administrator and thereupon the Administrator shall certify and file in such court the record upon which the final decision complained of was issued, as provided in section 2112 of Title 28. Upon the filing of such petition the court shall have jurisdiction to affirm or set aside the determination complained of in whole or in part. The findings of the Administrator with respect to questions of fact (including each determination made

under subparagraphs (A), (B), (C), and (D) of paragraph (1)) shall be sustained if based upon a fair evaluation of the entire record at such hearing.

(C) Proceedings before the court under this paragraph shall take precedence over all the other causes of action on the docket and shall be assigned for hearing and decision at the earliest practicable date and expedited in every way.

(D) Section 1857h-5(a) of this title (relating to subpoenas) shall be applicable to any proceeding under this subsection. (July 14, 1955, ch. 360, title I, § 110, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1680.)

CODIFICATION

A prior section 110 of Act July 14, 1955, was renumbered section 117 by Pub. L. 91-604, and is set out as section 1857e of this title.

SAVINGS PROVISIONS

Section 16 of Pub. L. 91-604 provided that:

"(a) (1) Any implementation plan adopted by any State and submitted to the Secretary of Health, Education, and Welfare, or to the Administrator pursuant to the Clean Air Act [this chapter] prior to enactment of this Act [Dec. 31, 1970] may be approved under section 110 of the Clean Air Act [this section] (as amended by this Act) [Pub. L. 91-604] and shall remain in effect, unless the Administrator determines that such implementation plan, or any portion thereof, is not consistent with applicable requirements of the Clean Air Act [this chapter] (as amended by this Act) and will not provide for the attainment of national primary ambient air quality standards in the time required by such Act. If the Administrator so determines, he shall, within 90 days after promulgation of any national ambient air quality standards pursuant to section 109(a) of the Clean Air Act [section 1857c-4(a) of this title], notify the State and specify in what respects changes are needed to meet the additional requirements of such Act, including requirements to implement national secondary ambient air quality standards. If such changes are not adopted by the State after public hearings and within six months after such notification, the Administrator shall promulgate such changes pursuant to section 110(c) of such Act [1857c-5(c) of this title].

"(2) The amendments made by section 4(b) [amending sections 1857b and 1857d of this title] shall not be construed as repealing or modifying the powers of the Administrator with respect to any conference convened under section 108(d) of the Clean Air Act [section 1857d of this title] before the date of enactment of this Act [Dec. 31, 1970].

"(b) Regulations or standards issued under this title II of the Clean Air Act [subchapter II of this chapter] prior to the enactment of this Act [Dec 31, 1970] shall continue in effect until revised by the Administrator consistent with the purposes of such Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c, 1857c-2, 1857c-6, 1857c-9, 1857f-6c, 1857h-5 of this title.

§ 1857c-6. Standards of performance for new stationary sources.

(a) Definitions.

For purposes of this section:

(1) The term "standard of performance" means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

(2) The term "new source" means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

(3) The term "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

(4) The term "modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

(5) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(6) The term "existing source" means any stationary source other than a new source.

(b) Publication and revision by Administrator of list of categories of stationary sources; inclusion of category in list; proposal of regulations by Administrator establishing standards for new sources within category; promulgation and revision of standards; differentiation within categories of new sources; issuance of information on pollution control techniques; applicability to new sources owned or operated by United States.

(1)(A) The Administrator shall, within 90 days after December 31, 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if he determines it may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare.

(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall propose regulations, establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publication, such standards with such modifications as he deems appropriate. The Administrator may, from to time, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance or revisions thereof shall become effective upon promulgation.

(2) The Administrator may distinguish among classes, types and sizes within categories of new sources for the purpose of establishing such standards.

(3) The Administrator shall, from time to time, issue information on pollution control techniques for categories of new sources and air pollutants subject to the provisions of this section.

(4) The provisions of this section shall apply to any new source owned or operated by the United States.

(c) Implementation and enforcement by State; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected.

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the

State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards (except with respect to new sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard of performance under this section.

(d) Emission standards for any existing source for any air pollutant; submission of State plan to Administrator establishing, implementing and enforcing standards; authority of Administrator to prescribe State plan; authority of Administrator to enforce State plan; procedure.

(1) The Administrator shall prescribe regulations which shall establish a procedure similar to that provided by section 1857c-5 of this title under which each State shall submit to the Administrator a plan which (A) establishes emission standards for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 1857c-3(a) or 1857c-7(b)(1)(A) of this title but (ii) to which a standard of performance under subsection (b) of this section would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such emission standards.

(2) The Administrator shall have the same authority—

(A) to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan as he would have under section 1857c-5(c) of this title in the case of failure to submit an implementation plan, and

(B) to enforce the provisions of such plan in cases where the State fails to enforce them as he would have under sections 1857c-8 and 1857c-9 of this title with respect to an implementation plan.

(e) Prohibited acts.

After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source. (July 14, 1955, ch. 360, title I, § 111, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1683.)

CODIFICATION

A prior section 111 of Act July 14, 1955, was renumbered section 118 by Pub. L. 91-604, and is set out as section 1857f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857c-7, 1857c-8, 1857c-9, 1857d, 1857d-1, 1857e, 1857f, 1857h-5, 1857h-6 of this title.

§ 1857c-7. National emission standards for hazardous air pollutants.

(a) Definitions.

For purposes of this section—

(1) The term "hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) The term "new source" means a stationary source the construction or modification of which is commenced after the Administrator proposes regulations under this section establishing an emission standard which will be applicable to such source.

(3) The terms "stationary source", "modification", "owner or operator" and "existing source" shall have the same meaning as such terms have under section 1857c-6(a) of this title.

(b) Publication and revision by Administrator of list of hazardous air pollutants; inclusion of air pollutant in list; proposal of regulations by Admintrator establishing standards for pollutant; establishment of standards; standards effective upon promulgation; issuance of information on pollution control techniques.

(1)(A) The Administrator shall, within 90 days after December 31, 1970, publish (and shall from time to time thereafter revise) a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section.

(B) Within 180 days after the inclusion of any air pollutant in such list, the Administrator shall publish proposed regulations establishing emission standards for such pollutant together with a notice of a public hearing within thirty days. Not later than 180 days after such publication, the Administrator shall prescribe an emission standard for such pollutant, unless he finds, on the basis of information presented at such hearings, that such pollutant clearly is not a hazardous air pollutant. The Administrator shall establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant.

(C) Any emission standard established pursuant to this section shall become effective upon promulgation.

(2) The Administrator shall, from time to time, issue information on pollution control techniques for air pollutant subject to the provisions of this section.

(c) Prohibited acts; exemption by President for any stationary source; duration and extension of exemption; report to Congress.

(1) After the effective date of any emission standard under this section—

(A) no person may construct any new source or modify any existing source which in the Administrator's judgment, will emit an air pollutant to which such standard applies unless the Administrator finds that such source if properly operated will not cause emissions in violation of such standard, and

(B) no air pollutant to which such standard applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

(i) such standard shall not apply until 90 days after its effective date, and

(ii) the Administrator may grant a waiver permitting such source a period of up to two years after the effective date of a standard to comply with the standard, if he finds that such period is necessary for the installation of con-

trols and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

(2) The President may exempt any stationary source from compliance with paragraph (1) for a period of not more than two years if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

(d) Implementation and enforcement by State of standards for stationary sources; procedure; delegation of authority of Administrator to State; enforcement power of Administrator unaffected.

(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards (except with respect to stationary sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard under this section. (July 14, 1955, ch. 360, title I, § 112, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1685.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1867c-6, 1857c-8, 1857c-9, 1857d, 1857d-1, 1857e, 1857f, 1857h-2, 1857h-5, 1857h-6 of this title.

§ 1857c-8. Federal enforcement procedures.

(a) Determination of violation of applicable implementation plan or standard; notification of violator; issuance of compliance order or initiation of civil action upon failure to correct; effect of compliance order; contents of compliance order.

(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any requirement of an applicable implementation plan, the Administrator shall notify the person in violation of the plan and the State in which the plan applies of such finding. If such violation extends beyond the 30th day after the date of the Administrator's notification, the Administrator may issue an order requiring such person to comply with the requirements of such plan or he may bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan are so widespread that such violations appear to result from a failure of the State in which the plan applies to enforce the plan effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the 30th day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any requirement of such plan with respect to any person—

(A) by issuing an order to comply with such requirement, or

(B) by bringing a civil action under subsection (b) of this section.

(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 1857c-6(e) of this title (relating to new source performance standards) or section 1857c-7 (c) of this title (relating to standards for hazardous emissions), or is in violation of any requirement of section 1857c-9 of this title (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b) of this section.

(4) An order issued under this subsection (other than an order relating to a violation of section 1857c-7 of this title) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers.

(b) Civil action for appropriate relief; jurisdiction; venue; notice to appropriate State agency.

The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

(1) violates or fails or refuses to comply with any order issued under subsection (a) of this section; or

(2) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such requirement; or

(3) violates section 1857c-6(e) or section 1857c-7(c) of this title; or

(4) fails or refuses to comply with any requirement of section 1857c-9 of this title.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.

(c) Penalties.

(1) Any person who knowingly—

(A) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such requirement, or

(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) of this section, or

(C) violates section 1857c-6(e) or section 1857c-7(c) of this title.

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. (July 14, 1955, ch. 360, title I, § 113, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857h-2, 1857h-4 of this title.

§ 1857c-9. Recordkeeping, inspections, monitoring, and entry.

(a) Authority of Administrator or authorized representative.

For the purpose (i) of developing or assisting in the development of any implementation plan under section 1957c-5 or section 1957c-6(d) of this title any standard of performance under section 1857c-6 of this title, or any emission standard under section 1857c-7 of this title, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 1857h-1 of this title—

(1) the Administrator may require the owner or operator of any emission source to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information as he may reasonably require; and

(2) the Administrator or his authorized representative, upon presentation of his credentials—

(A) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which any records required to be maintained under paragraph (1) of this section are located, and

(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which the owner or operator of such source is required to sample under paragraph (1).

(b) Enforcement procedure by State; delegation of authority of Administrator to State; power of Administrator unaffected.

(1) Each State may develop and submit to the Administrator a procedure for carrying out this section in such State. If the Administrator finds the State procedure is adequate, he may delegate to such State any authority he has to carry out this section (except with respect to new sources owned or operated by the United States).

(2) Nothing in this subsection shall prohibit the Administrator from carrying out this section in a State.

(c) Availability of records, reports, and information to public; disclosure of trade secrets.

Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of Title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter. (July 14, 1955, ch. 360, title I, § 114, as added Dec. 31, 1970, Pub. L. 91-604, § 4(a), 84 Stat. 1687.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-6, 1857c-8 of this title.

§ 1857d. Abatement of air pollution by means of conference procedure.

(a) Air pollution subject to abatement.

The pollution of the air in any State or States which endangers the health or welfare of any persons and which is covered by subsection (b) or (c) of this section, shall be subject to abatement as provided in this section.

(b) Conferences of air pollution agencies.

(1) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Administrator shall, if such request refers to air pollution which is alleged to endanger the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the air pollution control agency of the municipality where such dis-

charge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in whose jurisdictional area such municipality is located, and shall call promptly a conference of such agency or agencies and of the air pollution control agencies of the municipalities which may be adversely affected by such pollution, and the air pollution control agency, if any, of each State, or for each area, in which any such municipality is located.

(2) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Administrator shall, if such request refers to alleged air pollution which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate and if a municipality affected by such air pollution, or the municipality in which such pollution originates, has either made or concurred in such request, give formal notification thereof to the State air pollution control agency, to the air pollution control agencies of the municipality where such discharge or discharges originate, and of the municipality or municipalities alleged to be adversely affected thereby, and to any interstate air pollution control agency, whose jurisdictional area includes any such municipality and shall promptly call a conference of such agency or agencies, unless in the judgment of the Administrator, the effect of such pollution is not of such significance as to warrant exercise of Federal jurisdiction under this section.

(3) The Administrator may, after consultation with State officials of all affected States, also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) of this section is occurring and is endangering the health and welfare of persons in a State other than that in which the discharge or discharges originate. The Administrator shall invite the cooperation of any municipal, State, or interstate air pollution control agencies having jurisdiction in the affected area on any surveys or studies forming the basis of conference action.

(4) A conference may not be called under this subsection with respect to an air pollutant for which (at the time the conference is called) a national primary or secondary ambient air quality standard is in effect under section 1857c–4 of this title.

(c) Participation of foreign countries in conferences.

Whenever the Administrator upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) of this section which endangers the health or welfare of persons in a foreign country is occurring, or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the air pollution control agency of the municipality where such discharge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in the jurisdictional area of which such municipality is located, and shall call promptly a conference of such agency or agencies. The Administrator shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State air pollution control agency. This subsection shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respects to the prevention or control of air pollution occurring in that country as is given that country by this subsection.

(d) Attendance at conference; Federal report of matters before conference; notification of date of conference; presentation of views; transcript of proceedings; summary.

(1) The agencies called to attend any conference under this section may bring such persons as they desire to the conference. The Administrator shall deliver to such agencies and make available to other interested parties, at least thirty days prior to any such conference, a Federal report with respect to the matters before the conference, including data and conclusions or findings (if any); and shall give at least thirty days' prior notice of the conference date to any such agency, and to the public by publication on at least three different days in a newspaper or newspapers of general circulation in the area. The chairman of the conference shall give interested parties an opportunity to present their views to the conference with respect to such Federal report, conclusions or findings (if any), and other pertinent information. The Administrator shall provide that a transcript be maintained of the proceedings of the conference and that a copy of such transcript be made available on request of any participant in the conference at the expense of such participant.

(2) Following this conference, the Administrator shall prepare and forward to all air pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of air pollution subject to abatement under this chapter; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

(e) Recommendations of Administrator for remedial action by agencies; commencement of recommended action.

If the Administrator believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being endangered, he shall recommend to the appropriate State, interstate, or municipal air pollution control agency (or to all such agencies) that the necessary remedial action be taken. The Administrator shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

(f) Hearings for failure to abate pollution; board members; findings and recommendations.

(1) If, at the conclusion of the period so allowed, such remedial action or other action which in the judgment of the Administrator is reasonably calculated to secure abatement of such pollution has not been taken, the Administrator shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a hearing board of five or more persons appointed by the Administrator. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of such hearing board and each Federal department, agency, or instrumentality having a substantial interest in the subject matter as determined by the Administrator shall be given an opportunity to select one member of such hearing board, and one member shall be a representative of the appropriate interstate air pollution agency if one exists, and not less than a majority of such hearing board shall be persons other than officers or employees of the Environmental Protection Agency. At least three weeks' prior notice of such hearing shall be given to the State, interstate, and municipal air pollution control agencies called to attend such hearing and to the alleged polluter or polluters. All interested parties shall be given a reasonable opportunity to present evidence to such hearing board.

(2) On the basis of evidence presented at such hearing, the hearing board shall make findings as to whether pollution referred to in subsection (a) of this section is occurring and whether effective progress toward abatement thereof is being made. If the hearing board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Administrator concerning the measures, if any, which it finds to be reasonable and suitable to secure abatement of such pollution.

(3) The Administrator shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution; to air pollution control agencies of the State or States and of the municipality or municipalities where such discharge or discharges originate; and to any interstate air pollution control agency whose jurisdictional area includes any such municipality, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution.

(g) Judicial proceedings to secure abatement of pollution.

If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Administrator—

(1) in the case of pollution of air which is endangering the health or welfare of persons (A) in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, or (B) in a foreign country which has participated in a conference called under subsection (c) of this section and in all proceedings under this section resulting from such conference, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(2) in the case of pollution of air which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, at the request of the Governor of such State, shall provide such technical and other assistance as in his judgment is necessary to assist the State in judicial proceedings to secure abatement of the pollution under State or local law or, at the request of the Governor of such State, shall request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

(h) Federal court proceedings; evidence; jurisdiction of court.

The Court shall receive in evidence in any suit brought in a United States court under subsection (g) of this section a transcript of the proceedings before the board and a copy of the board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability of complying with such standards as may be applicable and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require.

(i) Compensation and travel expenses for members of hearing board.

Members of any hearing board appointed pursuant to subsection (f) of this section who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such board or otherwise engaged on the work of such board, be entitled to receive compensation at a rate fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (section 5703 of Title 5) for persons in the Government service employed intermittently.

(j) Furnishing of data to Administrator by polluter; reports; failure to make required report; forfeitures.

(1) In connection with any conference called under this section, the Administrator is authorized to require any person whose activities result in the emission of air pollutants causing or contributing to air pollution to file with him, in such form as he may prescribe, a report, based on existing data, furnishing to the Administrator such information as may reasonably be required as to the character, kind, and quantity of pollutants discharged and the use of devices or other means to prevent or reduce the emission of pollutants by the person filing such a report. After a conference has been held with respect to any such pollution the Administrator shall require such reports from the person whose activities result

in such pollution only to the extent recommended by such conference. Such report shall be made under oath or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as the Administrator may prescribe, unless additional time be granted by the Administrator. No person shall be required in such report to divulge trade secrets or secret processes and all information reported shall be considered confidential for the purposes section 1905 of Title 18.

(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by the Administrator for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business: *Provided,* That the Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection and he shall have authority to determine the facts upon all such applications.

(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

(k) Compliance with any requirement of an applicable implementation plan or prescribed standard.

No order or judgment under this section, or settlement, compromise, or agreement respecting any action under this section (whether or not entered or made before December 31, 1970) shall relieve any person of any obligation to comply with any requirement of an applicable implementation plan, or with any standard prescribed under section 1857c-6 or section 1857c-7 of this title. (July 14, 1955, ch. 360, title I, § 115, formerly § 5, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 396, renumbered § 105, and amended Oct. 20, 1965, Pub. L. 89-272, title I, §§ 101(2), (3), 102, 79 Stat. 992, 995, renumbered § 108 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 491, renumbered § 115 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (b) (2)-(10), 15(c)(2), 84 Stat. 1678, 1688, 1689, 1713.)

CODIFICATION

A prior section 1857d, act July 14, 1955, ch. 360, § 5, 69 Stat. 322, as amended September 22, 1959, Pub. L. 86-365, § 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206, related to appropriations, grants-in-aid and contracts. See sections 1857b (3)-(5), 1857c(b) and 1857*l* of this title.

The amendment of subsec. (g)(1) of this section by section 4(b)(9) of Pub. L. 91-604 eliminated "under". However such word has been retained as the probable intent of Congress.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 4(b)(2), added "and which is covered by subsection (b) or (c) of this section" following "persons".

Subsec. (b). Pub. L. 91-604, §§ 4(b) (3), (4), (5), 15(c)(2), redesignated former subsec. (d)(1) (A), (B), and (C) as (b) (1), (2), and (3), and, as so redesignated, substituted "Administrator" for "Secretary" wherever appearing therein, and added subsec. (b)(4). Former subsec. (b), which related to the encouragement of municipal, State, and interstate action to abate air pollution, was struck out.

Subsec. (c). Pub. L. 91-604, §§ 4(b) (3), (6), 15(c)(2), redesignated former subsec. (d)(1)(D) as (c), and, as so redesignated, substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare" wherever appearing therein and "subsection" for "subparagraph" wherever appearing therein. Former subsec. (c), which related to the procedure for the promulgation of State air quality standards, was struck out.

Subsec. (d). Pub. L. 91-604, §§ 4(b) (4), (6), (7), (8), 15(c)(2), redesignated former subsec. (d) (2) and (3) as (d)(1) and (2), and, as so redesignated, in (d)(1) substituted "Administrator" for "Secretary" wherever appearing therein and "any conference under this section" for "such conference", and in (d)(2) substituted "Administrator" for "Secretary". Former subsec. (d)(1) (A), (B), and (C) were redesignated as (b) (1), (2), and (3), respectively, and subsec. (d)(1)(D) was redesignated as (c).

Subsec. (e). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (f). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (g). Pub. L. 91-604, §§ 4(b)(9), 15(c)(2), substituted "Administrator" for "Secretary" and "subsection (c)" for "subparagraph (D) of subsection (d)".

Subsec. (i). Pub. L. 91-604, § 15(c)(2) substituted "Administrator" for "Secretary".

Subsec. (j). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (k). Pub. L. 91-604, § 4(b) (3), (10), substituted provisions relating to compliance with any requirement of an applicable implementation plan or with any standard prescribed under section 1857c-6 of this title or section 1857c-7 of this title, for provisions relating to the enjoining of imminent and substantial endangerment from pollution sources.

1967—Subsec. (b). Pub. L. 90-148 substituted reference to subsecs. (c), (h), or (k) of this section for reference to subsec. (g) of this section.

Subsec. (c). Pub. L. 90-148 added subsec. (c). Former subsec. (c) redesignated as subsec. (d) and amended.

Subsec. (d). Pub. L. 90-148 redesignated former subsec. (c) as subsec. (d) and, subsec. (d) as so redesignated, inserted into par. (2) provisions for the delivery prior to the conference of a Federal report to agencies and interested parties covering matters before the conference, raised from three weeks to thirty days the required notice of the conference, and added provisions for notice by newspapers, presentation of views on the Federal report, and transcript of proceedings. Former subsec. (d) redesignated as subsec. (e).

Subsec. (e). Pub. L. 90-148 redesignated former subsec. (d) as subsec. (e). Former subsec. (e) redesignated as subsec. (f) and amended.

Subsec. (f). Pub. L. 90-148 redesignated former subsec. (e) as subsec. (f) and, in subsec. (f) as so redesignated, inserted into par. (1) requirement that all interested parties be given a reasonable opportunity to present evidence to the hearing board. Former subsec. (f) redesignated as subsec. (g) and amended.

Subsec. (g). Pub. L. 90-148 redesignated former subsec. (f) as subsec. (g) and, in subsec. (g) as redesignated, substituted reference to subsec. (d) of this section for reference to subsec. (c) of this section. Former subsec. (g) redesignated as subsec. (h) and amended.

Subsec. (h). Pub. L. 90-148 redesignated former subsec. (g) as subsec. (h) and, in subsec. (h) as so redesignated, substituted reference to subsec. (g) of this section for reference to subsec. (f) of this section. Former subsec. (h) redesignated as subsec. (i) and amended.

Subsec. (i). Pub. L. 90-148 redesignated former subsec. (h) as subsec. (i) and, in subsec. (i) as so redesignated, substituted reference to subsec. (f) of this section for reference to subsec. (e) of this section and raised the per diem maximum from $50 to $100. Former subsec. (i) redesignated as subsec. (j).

Subsec. (j). Pub. L. 90-148 redesignated former subsec. (i) as subsec. (j).

Subsec (k). Pub. L. 90-148 added subsec. (k).

1965—Subsec. (b). Pub. L. 89-272, § 101(2), substituted "this title" for "this Act", which for purposes of codification has been changed to "this subchapter."

Subsec. (c)(1)(D). Pub. L. 89-272, § 102(a), added subpar. (D).

Subsec. (d)(3). Pub. L. 89-272, § 101(2), substituted "subchapter" for "chapter".

Subsec. (f)(1). Pub. L. 89-272, § 102(b), inserted "(A)" and added cl. (B).

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857b, 1857f of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in District of Columbia Code, § 6-812.

§ 1857d-1. Retention of State authority.

Except as otherwise provided in sections 1857f-6a, 1857f-6c(c)(4) and 1857f-11 of this title (preempting certain State regulation of moving sources) nothing in this chapter shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 1857c-6 or section 1857c-7 of this title, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section. (July 14, 1955, ch. 360, title I, § 116, formerly § 109, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 497, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, § 4(a), (c), 84 Stat. 1678, 1689.)

AMENDMENTS

1970—Pub. L. 91-604, § 4(c), substituted provisions which authorized any State or political subdivision thereof to adopt or enforce, except as otherwise provided, emission standards or limitations under the specified conditions, or any requirement respecting control or abatement of air pollution, for provisions which authorized any State, political subdivision, or intermunicipal or interstate agency to adopt standards and plans to achieve a higher level of air quality than approved by the Secretary.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857e. Air Quality Advisory Board; advisory committees.

(a) Establishment of Board; membership; appointment; term.

(1) There is hereby established in the Environmental Protection Agency an Air Quality Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and fifteen members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with air pollution, and of other public and private agencies, organizations, or groups demonstrating and active interest in the field of air pollution prevention and control, as well as other individuals who are expert in this field.

(2) Each member appointed by the President shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first taking office pursuant to this subsection shall expire as follows: five at the end of one year after the date of appointment, five at the end of two years after such date, and five at the end of three years after such date, as designated by the President at the time of appointment, and (C) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members shall be eligible for reappointment within one year after the end of his preceding term, unless such term was for less than three years.

(b) Duties of Board.

The Board shall advise and consult with the Administrator on matters of policy relating to the activities and functions of the Administrator under this chapter and make such recommendations as it deems necessary to the President.

(c) Clerical and technical assistance.

Such clerical and technical assistance as may be necessary to discharge the duties of the Board and such other advisory committees as hereinafter authorized shall be provided from the personnel of the Environmental Protection Agency.

(d) Advisory committees.

In order to obtain assistance in the development and implementation of the purposes of this chapter including air quality criteria, recommended control

techniques, standards, research and development, and to encourage the continued efforts on the part of industry to improve air quality and to develop economically feasible methods for the control and abatement of air pollution, the Administrator shall from time to time establish advisory committees. Committee members shall include, but not be limited to, persons who are knowledgeable concerning air quality from the standpoint of health, welfare, economics or technology.

(e) Compensation; travel expenses.

The members of the Board and other advisory committees appointed pursuant to this chapter who are not officers or employees of the United States while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(f) Consultations by Administrator.

Prior to—

(1) issuing criteria for an air pollutant under section 1857c-3(a)(2) of this title,

(2) publishing any list under section 1857c-6(b)(1)(A) or section 1857c-7(b)(1)(A) of this title,

(3) publishing any standard under section 1857c-6(b)(1)(B) or section 1857c-7(b)(1)(B) of this title, or

(4) publishing any regulation under section 1857f-1(a) of this title,

the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, independence experts, and Federal departments and agencies. (July 14, 1955, ch. 360, title I, §§ 117 formerly § 6, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 399, renumbered § 106, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(3), 79 Stat. 992, renumbered § 110 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 498, renumbered § 117 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), (d), 15(c)(2), 84 Stat. 1678, 1689, 1713.)

CODIFICATION

A prior section 1857e, act July 14, 1955, ch. 360, § 6, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206, defined "State air pollution control agency", "local government air pollution control agency" and "State". See section 1857h (b), (d) of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Environmental Protection Agency" for "Department of Health, Education, and Welfare" and "Administrator" for "Secretary".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (c). Pub. L. 91-604, § 15(c)(2), substituted "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (d). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein.

Subsec. (f). Pub. L. 91-604, § 4(d), added subsec. (f).

1967—Subsec. (a). Pub. L. 90-148 substituted provisions establishing in the Department of Health, Education, and Welfare an Air Quality Advisory Board and providing for the appointment and term of its members for provisions directing the Secretary to maintain liaison with manufacturers looking toward development of devices and fuels to reduce pollutants in automotive exhaust and to appoint a technical committee and call it together from time to time to evaluate progress and develop and recommend research programs.

Subsec. (b). Pub. L. 90-148 substituted provision setting out the duties of the Air Quality Advisory Board for provisions requiring the Secretary to make semi-annual reports to Congress on measures being taken toward the resolution of vehicle exhaust pollution problems.

Subsecs. (c)—(e). Pub. L. 90-148 added subsec. (c)—(e).

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

The Air Quality Advisory Board, together with its functions, was transferred from the Department of Health, Education, and Welfare to the Environmental Protection Agency by 1970 Reorg. Plan No. 3, § 2(b)(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ———, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857b of this title.

§ 1857f. Control and abatement of air pollution from Federal facilities; compliance of Federal departments, etc., with Federal, State, interstate, and local requirements; exemption by President of any emission source from any executive branch department, etc.; report to Congress.

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements. The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 1857c-6 of this title, and an exemption from section 1857c-7 may be granted only in accordance with section 1857c-7(c) of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested

such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption. (July 14, 1955, ch. 360, title I, § 118, formerly § 7, as added Dec. 17, 1963. Pub. L. 88-206,, § 1, 77 Stat. 399, renumbered § 107, Oct. 20, 1965, Pub. L. 89-272, title I, 101(3), 79 Stat. 992, renumbered § 111 and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499, renumbered § 118 and amended Dec. 31, 1970, Pub. L. 91-604, §§ 4(a), 5, 84 Stat. 1678, 1689.)

CODIFICATION

A prior section 1857f, act July 14, 1955, ch. 360, § 7, 69 Stat. 323, related to research and experiments under other laws. See section 1857l(a) of this title.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in former section 1857g, act July 14, 1955, ch. 360, § 8, as added Sept. 22, 1959, Pub. L. 86-365, § 2, 73 Stat. 646, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Pub. L. 91-604, § 5, struck out lettered designations (a) and (b), and, as so redesignated, substituted provisions requiring Federal facilities to comply with Federal, State, local, and interstate air pollution control and abatement requirements and provisions authorizing the President to exempt, under the specified terms and conditions, any emission source of any department, etc., in the executive branch from compliance with control and abatement requirements, for provisions requiring, to the extent practicable and consistent with the interests of the United States and within any available appropriations, Federal facilities to cooperate with the Department of Health, Education, and Welfare and with any air pollution control agency to prevent and control air pollution and provisions authorizing the Secretary to establish classes of potential pollution sources for which any Federal department or agency having jurisdiction over any facility was required to obtain a permit, under the specified terms and conditions, for the discharge of any matter into the air of the United States.

1967—Pub. L. 90-148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

EXECUTIVE ORDER NO. 11282

Ex. Ord. No. 11282, May 26, 1966, 31 F.R. 7663, which provided for the prevention, control, and abatement of air pollution from federal activities, was superseded by Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, set out as a note under section 4331 of this title.

PREVENTION, CONTROL, AND ABATEMENT AT FEDERAL FACILITIES

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, set out as a note under section 4331 of this title, provides for the prevention, control, and abatement of air pollution at federal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857h-2 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to District of Columbia Code, § 6-812.

SUBCHAPTER II.—EMISSION STANDARDS FOR MOVING SOURCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1857j-2 of this title.

§ 1857f-1. Establishment of standards.

(a) Air pollutant emissions.

Except as otherwise provided in subsection (b) of this section—

(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d) of this section), whether such vehicles and engines are designed as complete systems or incorporated devices to prevent or control such pollution.

(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(b) Model year 1975, reduction requirement; model year 1976, reduction requirement; promulgation; report to Congress; suspension of standards; interim standards.

(1)(A) The regulations under subsection (a) of this section applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1975 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

(B) The regulations under subsection (a) of this section applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1976 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles

manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to December 31, 1970), shall be prescribed by regulation within 180 days after such date.

(3) For purposes of this part—

(A) (i) The term "model year" with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b) of this section, the Administrator may prescribe regulations defining "model year" otherwise than as provided in clause (i).

(B) The term "light duty vehicles and engines" means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.

(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this chapter. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 1857h-5(a) of this title (relating to subpenas) shall apply.

(5) (A) At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1975.

(B) At any time after January 1, 1973, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (B) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during model year 1976.

(C) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

(D) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) of this section and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

(E) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.

(c) Feasibility study and investigation by National Academy of Sciences; reports to Administrator and Congress; availability of information.

(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

(2) Of the funds authorized to be appropriated to the Administrator by this chapter, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the

National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this chapter (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonabily necessary to carry out this subsection.

(d) Useful life of vehicles.

The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 1857f-5a of this title. Such regulations shall provide that useful life shall—

(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or fifty thousand miles (or the equivalent), whichever first occurs; and

(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

(e) New power sources or propulsion systems.

In the event of a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 1857f-5(a) of this title, the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a) of this section. (July 14, 1955, ch. 360, title II, § 202, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, § 6(a), 84 Stat. 1690.)

AMENDMENTS

1970—Subsec. (a) Pub. L. 91-604 redesignated existing provisions as par. (1) and, in par. (1) as so redesignated, substituted Administrator for Secretary as the issuing authority for standards, inserted references to the useful life of engines, and substituted the emission of any air pollutant for the emission of any kind of substance as the subject to be regulated, and added par. (2).

Subsec. (b). Pub. L. 91-604 added subsec. (b). Former subsec. (b) redesignated as par. (2) of subsec. (a).

Subsecs. (c)-(e). Pub. L. 91-604 added subsecs. (c)-(e).

1967—Pub. L. 90-148 reenacted section without change.

SHORT TITLE

Section 201 of Act July 14, 1955, as added by section 101(8) of Pub. L. 89-272, and amended by section 2 of Pub. L. 90-148, provided that: "This title [this subchapter] may be cited as the 'National Emission Standards Act'." Prior to its amendment by Pub. L. 90-148, title II of act July 14, 1955, was known as the "Motor Vehicle Air Pollution Control Act".

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857e, 1857f-2, 1857f-5, 1857f-5a, 1857f-6c, 1857f-6e, 1857f-7, 1857h-5, 1857h-6 of this title.

§ 1857f-2. Prohibited acts.

(a) Manufacture, sale, or importation of vehicles or engines not in conformity with regulations; failure to make reports or provide information; removal of devices installed in conformity with regulations; prohibited sale or lease of vehicles or engines.

The following acts and the causing thereof are prohibited—

(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the sale or the offering for sale, or the introduction, or delivery for introduction, into commerce, or (in the case of any person, except as provided by regulation of the Administrator), the importation into the United States of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this part which are applicable to such vehicle or engine unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under regulations prescribed under this part (except as provided in subsection (b) of this section);

(2) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information, required under section 1857f-6 of this title;

(3) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

(4) for any manufacturer of a new motor vehicle or new motor vehicle engine subject to standards prescribed under section 1857f-1 of this title—

(A) to sell or lease any such vehicle or engine unless such manufacturer has complied with the requirements of section 1857f-5a (a)

and (b) of this title with respect to such vehicle or engine, and unless a label or tag is affixed to such vehicle or engine in accordance with section 1857f-5a(c)(3) of this title, or

(B) to fail or refuse to comply with the requirements of section 1857f-5a(c) or (e) of this title.

(b) Authority of Administrator to make exemptions; refusal to admit vehicle or engine into United States; vehicles or engines intended for export.

(1) The Administrator may exempt any new motor vehicle or new motor vehicle engine, from subsection (a) of this section, upon such terms and conditions as he may find necessary for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(2) A new motor vehicle or new motor vehicle engine offered for importation or imported by any person in violation of subsection (a) of this section shall be refused admission into the United States, but the Secretary of the Treasury and the Administrator may, by joint regulation, provide for deferring final determination as to admission and authorizing the delivery of such a motor vehicle or engine offered for import to the owner or consignee thereof upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or engine will be brought into conformity with the standards, requirements, and limitations applicable to it under this part. The Secretary of the Treasury shall, if a motor vehicle or engine is finally refused admission under this paragraph, cause disposition thereof in accordance with the customs laws unless it is exported, under regulations prescribed by such Secretary, within ninety days of the date of notice of such refusal or such additional time as may be permitted pursuant to such regulations, except that disposition in accordance with the customs laws may not be made in such manner as may result, directly or indirectly, in the sale, to the ultimate consumer, of a new motor vehicle or new motor vehicle engine that fails to comply with applicable standards of the Administrator under this part.

(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall be subject to the provisions of subsection (a) of this section, except that if the country of export has emission standards which differ from the standards prescribed under subsection (a) of this section, then such vehicle or engine shall comply with the standards of such country of export.

(c) Exemptions; annual report of exemptions to Congress.

Upon application therefor, the Administrator may exempt from subsection (a)(3) of this section any vehicles (or class thereof) manufactured before the 1974 model year from subsection (a)(3) of this section[1] for the purpose of permitting modifications to the emission control device or system of such vehicle in order to use fuels other than those specified in certification testing under section 1857f-5(a)(1) of this title, if the Administrator, on the basis of information submitted by the applicant, finds that such modification will not result in such vehicle or engine not complying with standards under section 1857f-1 of this title applicable to such vehicle or engine. Any such exemption shall identify (1) the vehicle or vehicles so exempted, (2) the specific nature of the modification, and (3) the person or class of persons to whom the exemption shall apply. (July 14, 1955, ch. 360, title II, § 203, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 993, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91-604, §§ 7(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1693, 1705, 1713.)

[1] So in original.

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-604, § 7(a)(1), struck out reference to the manufacture of new motor vehicles or new motor vehicle engines for sale, inserted provision for issuance by the Administrator of regulations regarding exceptions in the case of importation of new motor vehicles or new motor vehicle engines, and substituted "importation" into the United States of such units for "importation for sale or resale" into the United States of such units.

Subsec. (a)(2). Pub. L. 91-604, § 7(a)(2), substituted "section 208" for "section 207", both of which, for purposes of codification, are translated as "section 1857f-6 of this title".

Subsec. (a)(3). Pub. L. 91-604, §§ 7(a)(3), 11(a)(2)(A), substituted "part" for "subchapter" and added provisions prohibiting the knowing removal or inoperation by manufacturers or dealers of devices or elements of design after sale and delivery to the ultimate purchaser.

Subsec. (a)(4). Pub. L. 91-604, § 7(a)(4), added subsec. (a)(4).

Subsec. (b)(1). Pub. L. 91-604, §§ 7(a)(5), 15(c)(2), struck out reference to the exemption of a class of new motor vehicles or new motor vehicle engines, struck out the protection of the public health and welfare from the enumeration of purposes for which exemptions may be made, and substituted "Administrator" for "Secretary".

Subsec. (b)(2). Pub. L. 91-604, §§ 7(a)(6), 11(a)(2)(A), 15(c)(2), substituted "Administrator" for "Secretary of Health, Education, and Welfare", "importation or imported by any person" for "importation by a manufacturer", and "part" for "subchapter".

Subsec. (b)(3). Pub. L. 91-604, § 7(a)(7)(A), added provision that, if the country of export has emission standards which differ from the standards prescribed under subsec. (a), such vehicle or engine must comply with the standards of such country of export.

Subsec. (c). Pub. L. 91-604, § 7(a)(7)(B), added subsec. (c).

1967—Subsec. (a). Pub. L. 90-148 substituted "conformity with regulations prescribed under this subchapter" for "conformity with regulations prescribed under section 1857f-1 of this title" in par. (1).

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-3, 1857f-4, 1857f-7 of this title.

§ 1857f-3. Jurisdiction of district court to restrain violations; actions brought by or in name of United States; territorial scope of subpenas for witnesses.

(a) The district courts of the United States shall have jurisdiction to restrain violations of paragraph (1), (2), (3), or (4) of section 1857f-2(a) of this title.

(b) Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpenas for witnesses who are required to attend a district court in any district may run into any other district. (July 14, 1955, ch. 360, title II, § 204, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(b), 84 Stat. 1694.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604 inserted reference to par. (4) of section 1857f-2(a) of this title.

1967—Pub. L. 90-148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857f-4. Penalties for violations; separate offenses.

Any person who violates paragraph (1), (2), (3) or (4) of section 1857f-2(a) of this title shall be subject to a civil penalty of not more than $10,000. Any such violation with respect to paragraph (1), (2), or (4) of section 1857f-2(a) of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. (July 14, 1955, ch. 360, title I, § 205, as added Oct. 20, 1965. Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91-604, § 7(c), 84 Stat. 1694.)

AMENDMENTS

1970—Pub. L. 91-604 increased the upper limit of the allowable fine from "$1,000" to "$10,000".

1967—Pub. L. 90-148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857f-5. Motor vehicle and motor vehicle engine compliance testing and certification.

(a) Testing and issuance of certificate of conformity.

(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 1857f-1 of this title. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe.

(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 1857f-1(b) of this title. If the Administrator finds on the basis of such tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

(b) Testing procedures; hearing; judicial review; additional evidence.

(1) In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued, the Administrator is authorized to test such vehicles or engines. Such tests may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer.

(2)(A)(i) If, based on tests conducted under paragraph (1) on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued, he may suspend or revoke such certificate in whole or in part, and shall so notify the manufacturer. Such suspension or revocation shall apply in the case of any new motor vehicles or new motor vehicle engines manufactured after the date of such notification (or manufactured before such date if still in the hands of the manufacturer), and shall apply until such time as the Administrator finds that vehicles and engines manufactured by the manufacturer do conform to such regulations. If, during any period of suspension or revocation, the

Administrator finds that a vehicle or engine actually conforms to such regulations, he shall issue a certificate of conformity applicable to such vehicle or engine.

(ii) If, based on tests conducted under paragraph (1) on any new vehicle or engine, the Administrator determines that such vehicle or engine does not conform with such regulations, he may suspend or revoke such certificate insofar as it applies to such vehicle or engine until such time as he finds such vehicle or engine actually so conforms with such regulations, and he shall so notify the manufacturer.

(B) (i) At the request of any maufacturer the Administrator shall grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied, and make a determination on the record with respect to any suspension or revocation under subparagraph (A); but suspension or revocation under subparagraph (A) shall not be stayed by reason of such hearing.

(ii) In any case of actual controversy as to the validity of any determination under clause (i), the manufacturer may at any time prior to the 60th day after such determination is made file a petition with the United States court of appeals for the circuit wherein such manufacturer resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which the Administrator based his determination, as provided in section 2112 of Title 28.

(iii) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(iv) Upon the filing of the petition referred to in clause (ii), the court shall have jurisdiction to review the order in accordance with chapter 7 of Title 5 and to grant appropriate relief as provided in such chapter.

(c) Inspection.

For purposes of enforcement of this section, officers or employees duly designated by the Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are authorized (1) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the purpose of conducting tests of vehicles or engines in the hands of the manufacturer, or (2) to inspect at reasonable times, records, files, papers, processes, controls, and facilities used by such manufacturer in conducting tests under regulations of the Administrator. Each such inspection shall be commenced and completed with reasonable promptness.

(d) Rules and regulations.

The Administrator shall by regulation establish methods and procedures for making tests under this section.

(e) Publication of test results.

The Administrator shall announce in the Federal Register and make available to the public the results of his tests of any motor vehicle or motor vehicle engine submitted by a manufacturer under subsection (a) of this section as promptly as possible after December 31, 1970, and at the beginning of each model year which begins thereafter. Such results shall be described in such nontechnical manner as will reasonably disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested in meeting the standards prescribed under section 1857f-1 of this title. (July 14, 1955, ch. 360, title II, § 206, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1694.)

PRIOR PROVISIONS

A prior section 206 of Act July 14, 1955, which also covered the testing of motor vehicles and motor vehicle engines, was repealed by Pub. L. 91-604.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 8(b) of Pub. L. 91-604 provided that: "The amendments made by this section [amending this section and enacting section 1857f-5a of this title] shall not apply to vehicles or engines imported into the United States before the sixtieth day after the date of enactment of this Act [Dec. 31, 1970]."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-1, 1858f-2, 1857f-5a, 1857f-7 of this title.

PART A.—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

§ 1857f-5a. Compliance by vehicles and engines in actual use.

(a) Warranty.

Effective with respect to vehicles and engines manufactured in model years beginning more than 60 days after December 31, 1970, the manufacturer of each new motor vehicle and new motor vehicle engine shall warrant to the ultimate purchaser and

each subsequent purchaser that such vehicle or engine is (1) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 1857f-1 of this title, and (2) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable regulations for its useful life (as determined under section 1857f-1(d) of this title).

(b) Testing methods and procedures.

If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 1857f-1(d) of this title), each vehicle and engine to which regulations under section 1857f-1 of this title apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 1857f-5(a)(1) of this title, then—

(1) he shall establish such methods and procedures by regulation, and

(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under under section 1857f-1 of this title applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph (2). The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3) of this section,

(B) it fails to conform at any time during its useful life (as determined under section 1857f-1(d) of this title) to the regulations prescribed under section 1857f-1 of this title, and

(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law,

then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer.

(c) Nonconforming vehicles; plan for remedying nonconformity; instructions for maintenance and use.

Effective with respect to vehicles and engines manufactured during model years beginning more than 60 days after December 31, 1970—

(1) If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 1857f-1 of this title, when in actual use throughout their useful life (as determined under section 1857f-1(d) of this title), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer. If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing the Administrator withdraws such determination of nonconformity, he shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (2).

(2) Any notification required by paragraph (1) with respect to any class or category of vehicles or engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as the Administrator may by regulation require.

(3) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine such written instructions for the maintenance and use of the vehicle or engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control devices and systems. In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 1857f-1 of this title. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.

(d) Dealer costs borne by manufacturer.

Any cost obligation of any dealer incurred as a result of any requirement imposed by subsection (a), (b), or (c) of this section shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

(e) Cost statement.

If a manufacturer includes in any advertisement a statement respecting the cost or value of emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 1857j of this title.

(f) Inspection after sale to ultimate purchaser.

Any inspection of a motor vehicle or a motor vehicle engine for purposes of subsection (c)(1) of this section, after its sale to the ultimate purchaser, shall be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any State or local inspection program. (July 14, 1955, ch. 360, title II, § 207, as added Dec. 31, 1970, Pub. L. 91-604, § 8(a), 84 Stat. 1696.)

CODIFICATION

A prior section 207 of act July 14, 1955, was renumbered section 208 by Pub. L. 91-604 and is set out as section 1857f-6 of this title.

EFFECTIVE DATE

Section not applicable to vehicles or engines imported into the United States before the sixtieth day after Dec. 31, 1970, see section 8(b) of Pub. L. 91-604, set out as a note under section 1857f-5 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-1, 1857f-2 of this title.

§ 1857f-6. Reports, records, and information required; access to and copying records; availability to public; disclosure of trade secrets.

(a) Every manufacturer shall establish and maintain such records, make such reports, and provide such information, as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this part and regulations thereunder and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times, to have access to and copy such records.

(b) Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of Title 18, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control, from the duly authorized committees of the Congress. (July 14, 1955, ch. 360, title II, § 208, formerly § 207, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 90-604, §§ 8(a), 10(a), 11(a)(2)(A), 15(c)(a), 84 Stat. 1694, 1700, 1705, 1713.)

CODIFICATION

A prior section 208 of Act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, was renumbered section 209 by Pub. L. 91-604, and is set out as section 1857f-6a of this title.

A prior section 208 of Act July 14, 1955, forming a part of such Act as originally enacted, was renumbered section 212 by Pub. L. 90-148 and again renumbered section 213 by Pub. L. 91-604, and is set out as section 1857f-7 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, §§ 11(a)(2)(A), 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing therein and "part" for "subchapter".

Subsec. (b). Pub. L. 91-604, §§ 10(a), 15(c)(2), substituted provisions authorizing the Administrator to make available to the public any records, reports, of information obtained under subsec. (a) of this section, except those shown to the Administrator to be entitled to protection as trade secrets, for provisions that all information reported or otherwise obtained by the Secretary or his representative pursuant to subsec. (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of Title 18, be considered confidential for the purpose of such section 1905, and substituted "Administrator" for "Secretary".

1967—Pub. L. 90-148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f-2, 1857f-7 of this title.

§ 1857f-6a. State standards.

(a) No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

(b) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 1857f-1(a) of this title.

(c) Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed

motor vehicles. (July 14, 1955, ch. 306, title II, § 209, formerly § 208, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 501, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1705, 1713.)

CODIFICATION

A prior section 209 of Act July 14, 1955, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, was renumbered section 210 by Pub. L. 91-604 and is set out as section 1857f-6b of this title.

A prior section 209 of Act July 14, 1955, forming a part of such Act as originally enacted, was set out as section 1857f-8 of this title and was repealed by Pub. L. 89-675, § 2(b), Oct. 15, 1966, 80 Stat. 954.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

Subsec. (b). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

Subsec. (c). Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857d-1, 1857f-6c, 1857f-7 of this title.

§ 1857f-6b. Federal assistance in developing and maintaining vehicle emission devices and systems inspection and emission testing and control programs.

The Administrator is authorized to make grants to appropriate State agencies in an amount up to two-thirds of the cost of developing and maintaining effective vehicle emission devices and systems inspection and emission testing and control programs, except that—

(1) no such grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program;

(2) No such grant shall be made unless the Secretary of Transportation has certified to the Administrator that such program is consistent with any highway safety program developed pursuant to section 402 of Title 23; and

(3) no such grant shall be made unless the program includes provisions designed to insure that emission control devices and systems on vehicles in actual use have not been discontinued or rendered inoperative.

(July 14, 1955, ch. 306, title II, § 210, formerly § 209, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(b), 84 Stat. 1694, 1700.)

CODIFICATION

A prior section 210 of Act July 14, 1955, was renumbered section 211 by Pub. L. 91-604 and is set out as section 1857f-6c of this title.

AMENDMENTS

1970—Pub. L. 91-604 substituted provisions authorizing the Administrator to make grants to appropriate State agencies for the development and maintenance of effective vehicle emission devices and systems inspection and emission testing and control programs, for provisions authorizing the Secretary to make grants to appropriate State air pollution control agencies for the development of meaningful uniform motor vehicle emission device inspection and emission testing programs.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857f-6c. Regulation of fuels.

(a) Authority of Administrator to regulate.

The Administrator may by regulation designate any fuel or fuel additive and, after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel or additive may sell, offer for sale, or introduce into commerce such fuel or additive unless the Administrator has registered such fuel or additive in accordance with subsection (b) of this section.

(b) Registration requirement.

(1) For the purpose of registration of fuels and fuel additives, the Administrator shall require—

(A) the manufacturer of any fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of any additive in the fuel; and the purpose-in-use of any such additive; and

(B) the manufacturer of any additive to notify him as to the chemical composition of such additive.

(2) For the purpose of registration of fuels and fuel additives, the Administrator may also require the manufacturer of any fuel or fuel additive—

(A) to conduct tests to determine potential public health effects of such fuel or additive (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects), and

(B) to furnish the description of any analytical technique that can be used to detect and measure

any additive in such fuel, the recommended range of concentration of such additive, and the recommended purpose-in-use of such additive, and such other information as is reasonable and necessary to determine the emissions, resulting from the use of the fuel or additive contained in such fuel, the effect of such fuel or additive on the emission control performance of any vehicle or vehicle engine, or the extent to which such emissions affect the public health or welfare.

Tests under subparagraph (A) shall be conducted in conformity with test procedures and protocols established by the Administrator. The result of such tests shall not be considered confidential.

(3) Upon compliance with the provision of this subsection, including assurances that the Administrator will receive changes in the information required, the Administrator shall register such fuel or fuel additive.

(c) Control or prohibition of offending fuels and fuel additives.

(1) The Administrator may, from time to time on the basis of information obtained under subsection (b) of this section or other information available to him, by regulation, control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine (A) if any emission products of such fuel or fuel additive will endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such regulation to be promulgated.

(2)(A) No fuel, class of fuels, or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (A) of paragraph (1) except after consideration of all relevant medical and scientific evidence available to him, including consideration of other technologically or economically feasible means of achieving emission standards under section 1857f-1 of this title.

(B) No fuel or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (B) of paragraph (1) except after consideration of available scientific and economic data, including a cost benefit analysis comparing emission control devices or systems which are or will be in general use and require the proposed control or prohibition with emission control devices or systems which are or will be in general use and do not require the proposed control or prohibition. On request of a manufacturer of motor vehicles, motor vehicle engines, fuels, or fuel additives submitted within 10 days of notice of proposed rulemaking, the Administrator shall hold a public hearing and publish findings with respect to any matter he is required to consider under this subparagraph. Such findings shall be published at the time of promulgation of final regulations.

(C) No fuel or fuel additive may be prohibited by the Administrator under paragraph (1) unless he finds, and publishes such finding, that in his judgment such prohibition will not cause the use of any other fuel or fuel additive which will produce emissions which will endanger the public health or welfare to the same or greater degree than the use of the fuel or fuel additive proposed to be prohibited.

(3)(A) For the purpose of evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

(B) In obtaining information under subparagraph (A), section 1857h-5(a) of this title (relating to subpenas) shall be applicable.

(4)(A) Except as otherwise provided in subparagraph (B) or (C), no State (or political subdivision thereof) may prescribe or attempt to enforce, for purposes of motor vehicle emission control, any control or prohibition respecting use of a fuel or fuel additive in a motor vehicle or motor vehicle engine—

(i) if the Administrator has found that no control or prohibition under paragraph (1) is necessary and has published his finding in the Federal Register, or

(ii) if the Administrator has prescribed under paragraph (1) a control or prohibition applicable to such fuel or fuel additive, unless State prohibition or control is identical to the prohibition or control prescribed by the Administrator.

(B) Any State for which application of section 1857f-6a(a) of this title has at any time been waived under section 1857f-6a(b) of this title may at any time prescribe and enforce, for the purpose of motor vehicle emission control, a control or prohibition respecting any fuel or fuel additive.

(C) A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 1857c-5 of this title so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements.

(d) Penalty.

Any person who violates subsection (a) of this section or the regulations prescribed under subsection (c) of this section or who fails to furnish any information required by the Administrator under subsection (c) of this section shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person

has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications. (July 14, 1955, ch. 360, title II, § 210, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 502, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 9(a), 84 Stat. 1694, 1698.)

CODIFICATION

A prior section 211 of act July 14, 1955, providing for a national emissions standards study, was set out as section 1857f-6d of this title and was repealed by section 8(a) of Pub. L. 91-604.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 9(a), substituted "Administrator" for "Secretary" as the registering authority, added references to fuel additives, and substituted the selling, offering for sale, and introduction into commerce of fuel or fuel additives, for the delivery for introduction into interstate commerce or delivery to another person who can reasonably be expected to deliver fuel into interstate commerce.

Subsec. (b). Pub. L. 91-604, § 9(a), designated existing provisions as pars. (1) and (3), added par. (2), and substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (c). Pub. L. 91-604, § 9(a), substituted provisions covering the control or prohibition of offending fuels and fuel additives, for provisions covering trade secrets and substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (d). Pub. L. 91-604, § 9(a), added references to failure to obey regulations prescribed under subsec. (c) and failure to furnish information required by the Administrator under subsec. (c), increased the daily civil penalty from $1,000 to $10,000 and substituted "Administrator" for "Secretary".

Subsec. (e). Pub. L. 91-604, § 9(a), struck out subsec. (e) which directed the various United States Attorneys to prosecute for the recovery of forfeitures.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857d-1, 1857h-5 of this title.

§ 1857f-6d. Repealed. Pub. L. 91-604, § 8(a), Dec. 31, 1970, 84 Stat. 1694.

Section, act July 14, 1955, ch. 360, title II, § 211, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, provided for a national emissions standards study for stationary sources to be conducted by the Secretary, with a report and recommendations to be submitted to the Congress by Nov. 21, 1969, and for a study of the feasibility of controls for jet and piston aircraft engines, with a report thereon to Congress by Nov. 21, 1968.

§ 1857f-6e. Low-emission vehicles.

(a) Definitions.

For the purpose of this section—

(1) The term "Board" means the Low-Emission Vehicle Certification Board.

(2) The term "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

(3) The term "motor vehicle" means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

(4) The term "low-emission vehicle" means any motor vehicle which—

(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 1857f-1 of this title at the time of procurement to that type of vehicle; and

(B) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 1875f-1 of this title at the time of procurement to that type of vehicle.

(5) The term "retail price" means (A) the maximum statutory price applicable to any class or model of motor vehicle; or (B) in any case where three is no applicable maximum statutory price, the most recent procurement price paid for any class or model of motor vehicle.

(b) Low-Emission Vehicle Certification Board; establishment; composition; appointment; Chairman; compensation; travel expenses; employment and compensation of additional personnel; time and place of meetings; powers.

(1) There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Safety Bureau in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

(2) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(3)(A) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS-18 by section 5332 of Title 5.

(B) The Chairman may fix the time and place of such meetings as may be required, but a meeting of the Board shall be called whenever a majority of its members so request.

(C) The Board is granted all other power necessary for meeting its responsibilities under this section.

(c) Determination by Administrator of models or classes of motor vehicles qualifying as low-emission vehicles.

The Administrator shall determine which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this section.

(d) Certification by Board; specifications for suitable substitutes; criteria for certification; term of certification; procedure for certification.

(1) The Board shall certify any class or model of motor vehicles—

(A) for which a certification application has been filed in accordance with paragraph (3) of this subsection;

(B) which is a low-emission vehicle as determined by the Administrator; and

(C) which it determines is suitable for use as a substitute for a class or model of vehicles at that time in use by agencies of the Federal Government.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

(i) the safety of the vehicle;

(ii) its performance characteristics;

(iii) its reliability potential;

(iv) its serviceability;

(v) its fuel availability;

(vi) its noise level; and

(vii) its maintenance costs as compared with the class or model of motor vehicle for which it may be a suitable substitute.

(2) Certification under this section shall be effective for a period of one year from the date of issuance.

(3) (A) Any party seeking to have a class or model of vehicle certified under this section shall file a certification application in accordance with regulations prescribed by the Board.

(B) The Board shall publish a notice of each application received in the Federal Register.

(C) The Administrator and the Board shall make determinations for the purpose of this section in accordance with procedures prescribed by regulation by the Administrator and the Board, respectively.

(D) The Administrator and the Board shall conduct whatever investigation is necessary, including actual inspection of the vehicle at a place designated in regulations prescribed under subparagraph (A).

(E) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

(F) Within 90 days after the receipt of a properly filed certification application, the Administrator shall determine whether such class or model of vehicle is a low-emission vehicle, and within 180 days of such determination, the Board shall reach a decision by majority vote as to whether such class or model of vehicle, having been determined to be a low-emission vehicle, is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator and the Board shall each publish in the Federal Register notice of such determination or decision, including reasons therefor and in the case of the Board any dissenting views.

(e) Acquisition by Federal government by purchase or lease; procurement costs; contract provisions.

(1) Certified low-emission vehicles shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other vehicles if the Administrator of General Services determines that such certified vehicles have procurement costs which are no more than 150 per centum of the retail price of the least expensive class or model of motor vehicle for which they are certified substitutes.

(2) In order to encourage development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in paragraph (1) of this subsection to 200 per centum of the retail price of any class or model of motor vehicle for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an inherently low-polluting propulsion system.

(3) Data relied upon by the Board and the Administrator in determining that a vehicle is a certified low-emission vehicle shall be incorporated in any contract for the procurement of such vehicle.

(f) Priority for purchase by procuring agency.

The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible certified low-emission vehicles, the procuring agency shall give priority to (1) any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute; and (2) passenger vehicles other than buses.

(g) Waiver of statutory price limitations.

For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived.

(h) Testing of emissions from certified low-emission vehicles purchased by the Federal government; procedure; recertification.

The Administrator shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certifica-

tion under this section was based, the Administrator shall notify the Board. Thereupon the Board shall give the supplier of such vehicles written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

(i) Authorization of appropriations.

There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $5,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for each of the two succeeding fiscal years.

(j) Promulgation by Board of implementing procedures.

The Board shall promulgate the procedures required to implement this section within one hundred and eight days after December 31, 1970. (July 14, 1955, title II, § 212, as added Dec 31, 1970, Pub. L. 91-604, § 10(c), 84 Stat. 1700.)

CODIFICATION

A prior section 212 of act July 14, 1955, was renumbered section 213 by Pub. L. 91-604 and is set out as section 1857b-7 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857*l* of this title.

§ 1857f-7. Definitions.

As used in this part—

(1) The term manufacturer as used in sections 1857f-1, 1857f-2, 1857f-5, 1857f-6, and 1857f-6a of this title means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicles engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

(2) The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(3) Except with respect to vehicles or engines imported or offered for importation, the term "new motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term "new motor vehicle engine" means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under section 1857f-1 of this title which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States).

(4) The term "dealer" means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

(5) The term "ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

(6) The term "commerce" means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia.

(July 14, 1955, ch. 360, title II, § 213, formerly § 208, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 994, renumbered § 212, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 503, renumbered § 213, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 8(a), 10(d), 11(a)(2)(A), 84 Stat. 1694, 1703, 1705.)

AMENDMENTS

1970—Pub. L. 91-604, § 11(a)(2)(A), substituted "part" for "subchapter".

Par. (1). Pub. L. 91-604, § 10(d)(1), added reference to section 1857f-1 of this title.

Par. (3). Pub. L. 91-604, § 10(d)(2), added the provisions which defined such terms with respect to imported vehicles or engines.

1967—Pub. L. 90-148 inserted "as used in sections 1857f-2, 1857f-5, 1857f-6, and 1857f-6a of this title" following "manufacturer" in par. (1).

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857f-8. Repealed. Pub. L. 89-675, § 2(b), Oct. 15, 1966, 80 Stat. 954.

Section, act July 14, 1955, ch. 360, title II, § 209, as added Oct. 20, 1965, Pub. L. 89-272, title I, § 101(8), 79 Stat. 995, authorized appropriations for the fiscal years ending June 30, 1966, 1967, 1968, and 1969, to carry out sections 1857f-1 to 1857f-7. See section 1857*l* of this title.

PART B.—AIRCRAFT EMISSION STANDARDS

§ 1857f-9. Establishment of standards.

(a) Study; report; hearings; issuance of regulations.

(1) Within 90 days after December 31, 1970, the Administrator shall commence a study and investigation of emissions of air pollutants from aircraft in order to determine—

(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

(B) the technological feasibility of controlling such emissions.

(2) Within 180 days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare.

(3) The Administrator shall hold public hearings with respect to such proposed standards. Such hearings shall, to the extent practicable, be held in air quality control regions which are most seriously affected by aircraft emissions. Within 90 days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

(b) Effective date of regulations.

Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

(c) Consultation with Secretary of Transportation.

Any regulations under this section, or amendments thereto, with respect to aircraft, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for aircraft safety. (July 14, 1955, ch. 360, title II, § 231, as added Dec. 31, 1970, Pub. L. 91–604, § 11(a)(1), 84 Stat. 1703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857f–10, 1857h–5 of this title.

§ 1857f–10. Enforcement of standards; regulations by Secretary of Transportation; proceedings to amend, modify, suspend, or revoke certificates.

(a) The Secretary of Transportation, after consulation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 1857f-9 of this title by the Administrator. The regulations of the Secretary of Transportation shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act or the Department of Transportation Act. Such Secretary shall insure that all necessary inspections are accomplished, and, may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of an emission standard prescribed under section 1857f–9 of this title or of a regulation prescribed under subsection (a) of this section is at issue, the certificate holder shall have the same notice and appeal rights as are prescribed for such holders in the Federal Aviation Act of 1958 or the Department of Transportation Act, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standard or regulation and that such amendment, modification, or revocation is consistent with safety in air transportation. (July 14, 1955, ch. 360, title II, § 232, as added Dec. 31, 1970, Pub. L. 91–604, § 11(a)(1), 84 Stat. 1704.)

REFERENCES IN TEXT

The Federal Aviation Act and the Federal Aviation Act of 1958, referred to in text, both have reference to Pub. L. 85–726, Aug. 23, 1958, 72 Stat. 731, which is classified to section 1301 et seq. of Title 49, Transportation.

The Department of Transportation Act, referred to in text, is Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which is classified to section 1651 et seq. of Title 49.

§ 1857f–11. State standards and controls.

No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to a standard applicable to such aircraft under this part. (July 14, 1955, ch. 360, title II, § 233, as added Dec. 31, 1970, Pub. L. 91–604, § 11(a)(1), 84 Stat. 1704.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857d–1 of this title.

§ 1857f–12. Definitions.

Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 1301 of Title 49. (July 14, 1955, ch. 360, title II, § 234, as added Dec. 31, 1970, Pub. L. 91–604, § 11(a)(1), 84 Stat. 1705.)

SUBCHAPTER III.—GENERAL PROVISIONS

§ 1857g. Administration.

(a) Regulations; delegation of powers of Administrator.

The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter. The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient.

(b) Detail of Environmental Protection Agency personnel to air pollution control agencies.

Upon the request of an air pollution control agency personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this chapter.

(c) Payments under grants: installments; advances or reimbursement.

Payments under grants made under this chapter may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administrator. (July 14, 1955, ch. 360, title III, § 301, formerly § 8, as added Dec. 17, 1963, Pub. L. 88–206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89–272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91–604, §§ 3(b)(2), 15(c)(2), 84 Stat. 1677, 1713.)

CODIFICATION

A prior section 1857g, act July 14, 1955, ch. 360, § 8, as added Sept. 22, 1959, Pub. L. 86–365, § 2, 73 Stat. 646,

prior to the general amendment of this chapter by Pub. L. 88–206, provided for cooperative effort. See section 1857f (a) of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (b). Pub. L. 91–604, § 3(b)(2), substituted "Environmental Protection Agency" for "Public Health Service" and struck out provisions covering the payment of salaries and allowances.

Subsec. (c). Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary".

1967—Pub. L. 90–148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c of this title.

§ 1857h. Definitions.

When used in this chapter—

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this chapter;

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(c) The term "interstate air pollution control agency" means—

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(e) The term "person" includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(g) The term "air pollutant" means an air pollution agent or combination of such agents.

(h) All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being. (July 14, 1955, ch. 360, title III, § 302, formerly § 9, as added Dec. 17, 1963, Pub. L. 88–206, § 1, 77 Stat. 400, renumbered Oct. 20, 1965, Pub. L. 89–272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91–604, § 15(a)(1), (c)(1), 84 Stat. 1710, 1713.)

PRIOR PROVISIONS

Provisions similar to subsecs. (b) and (d) of this section were contained in former section 1857e, act July 14, 1955, ch. 360, § 6, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88–206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–604, § 15(c)(1), substituted a definition of "Administrator" as meaning the Administrator of the Environmental Protection Agency for a definition of "Secretary" as meaning the Secretary of Health, Education, and Welfare.

Subsec. (g). Pub. L. 91–604, § 15(a)(1), added subsec. (g) defining "air pollutant". Former subsec. (g) redesignated as subsec. (h) and amended.

Subsec. (h). Pub. L. 91–604, § 15(a)(1), redesignated subsec. (g) as subsec. (h) and, in subsec. (h) as so redesignated, substituted references to effects on soil, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate for references to injury to agricultural crops and livestock, and inserted references to effects on economic values and on personal comfort and well being.

1967—Pub. L. 90–148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857c of this title; title 26 sections 48, 169.

§ 1857h–1. Emergency powers.

Notwithstanding any other provision of this chapter, the Administrator, upon receipt of evidence that a pollution source or combination of sources (includ-

ing moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of air pollutants causing or contributing to such pollution or to take such other action as may be necessary. (July 14, 1955, ch. 360, title III, § 303, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705.)

CODIFICATION

A prior section 303 of act July 14, 1955, was renumbered section 310 by Pub. L. 91-604, and is set out as section 1857i of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857c-9 of this title.

§ 1857h-2. Citizen suits.

(a) Establishment of right to bring suit.

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an emission standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be.

(b) Notice.

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any person may intervene as a matter of right.

(2) under subsection (a)(2) of the section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 1857c-7(c)(1)(B) of this title or an order issued by the Administrator pursuant to section 1857c-8(a) of this title. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) Venue; intervention by Administrator.

(1) Any action respecting a violation by a stationary source of an emission standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) Award of costs; security.

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Non-restriction of other rights.

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any emission standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) Definition.

For purposes of this section, the term "emission standard or limitation under this chapter" means—

(1) a schedule or timetable of compliance, emission limitation, standard of performance or emission standard, or

(2) a control or prohibition respecting a motor vehicle fuel or fuel additive,

which is in effect under this chapter (including a requirement applicable by reason of section 1857f of this title or under an applicable implementation plan. (July 14, 1955, ch. 360, title II, § 304, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1706.)

CODIFICATION

A prior section 304 of act July 14, 1955, was renumbered section 311 by Pub. L. 91-604, and is set out as section 1857j of this title.

§ 1857h-3. Legal representation of Administrator and appearance by Attorney General.

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this chapter to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action within a reasonable time, attorneys appointed by the Administrator shall appear and represent him. (July 14, 1955, ch. 360, title III, § 305, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707.)

CODIFICATION

A prior section 305 of act July 14, 1955, was renumbered section 312 by Pub. L. 91-604, and is set out as section 1857j-1 of this title.

§ 1857h-4. Federal procurement.

(a) Contracts with violators prohibited.

No Federal agency may enter into any contract with any person who is convicted of any offense under section 1857c-8(c)(1) of this title for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

(b) Notification procedures.

The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) Federal agency contracts.

In order to implement the purposes and policy of this chapter to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after December 31, 1970, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this chapter in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

(d) Exemptions; notification to Congress.

The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) Annual report to Congress.

The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. (July 14, 1955, ch. 360, title III, § 306, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707.)

CODIFICATION

A prior section 306 of act July 14, 1955, was renumbered section 313 by Pub. L. 91-604, and is set out as section 1857j-2 of this title.

§ 1857h-5. Administrative proceedings and judicial review.

(a)(1)[1] In connection with any determination under section 1857c-5(f) or section 1857f-1(b)(5) of this title, or for purposes of obtaining information under section 1857f-1(b)(4) or 1857f-1(c)(4) of this title, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of Title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 1857f-1(c) of this title, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b)(1) A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard under section 1857c-7 of this title, any standard of performance under section 1857c-6 of this title, any standard under section 1857f-1 of this title (other than a standard required to be prescribed under section 1857f-1(b)(1) of this title), any determination under section 1857f-1(b)(5) of this title, any control or prohibition under section 1857f-6c of this title or any standard under section 1857f-9 of this title may be filed only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any implementation plan under section 1857c-5 of this title or section 1857c-6(d) of this title, may be filed only in the United States Court of Appeals for the appropriate circuit. Any such petition shall be filed within 30 days from the date of such promulgation or approval, or after such date if such petition is based solely on grounds arising after such 30th day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

(c) In any judicial proceeding in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms

[1] So in original. Subsec. (a) was enacted without a par. (2).

and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence. (July 14, 1955, ch. 360, title III, § 307, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1707.)

CODIFICATION

Provisions for the obtaining of information under section 1857f-1(c)(4) of this title, set out in subsec. (a)(1), was, in the original, a reference to the obtaining of information under section 210(c)(4) of the Clean Air Act. Such provision has been translated as section 1857f-1(c)(4) of this title as the probable intent of Congress.

A prior section 307 of act July 14, 1955, was renumbered section 314 by Pub. L. 91-604, and is set out as section 1857j-3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1857c-5, 1857f-1, 1857f-6c of this title.

§ 1857h-6. Mandatory licensing.

Whenever the Attorney General determines, upon application of the Administrator—

(1) that—

(A) in the implementation of the requirements of section 1857c-6, 1857c-7, or 1857f-1 of this title, a right under any United States letters patent, which is being used or intended for public or commercial use and not otherwise reasonably available, is necessary to enable any person required to comply with such limitation to so comply, and

(B) there are no reasonable alternative methods to accomplish such purpose, and

(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United States, which may issue an order requiring the person who owns such patent to license it on such reasonable terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district in which the person owning the patent resides, does business, or is found. (July 14, 1955, ch. 360, title III, § 308, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1708.)

CODIFICATION

A prior section 308 of act July 14, 1955, was renumbered section 315 by Pub. L. 91-604, and is set out as section 1857k of this title.

§ 1857h-7. Policy review.

(a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 4332(2)(C) of this title applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality. (July 14, 1955, ch. 360, title III, § 309, as added Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1709.)

CODIFICATION

A prior section 309 of act July 14, 1955, was renumbered section 316 by Pub. L. 91-604, and is set out as section 1857l of this title.

§ 1857i. Application to other laws; nonduplication of appropriations.

(a) Except as provided in subsection (b) of this section, this chapter shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of the Administrator or any other Federal officer, department, or agency.

(b) No appropriation shall be authorized or made under section 241, 243, or 246 of this title for any fiscal year after the fiscal year ending June 30, 1964, for any purpose for which appropriations may be made under authority of this chapter. (July 14, 1955, ch. 360, title III, § 310, formerly § 10, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 303, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 505; renumbered § 310, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(a), 84 Stat. 1705, 1713.)

CODIFICATION

A prior section 310 of act July 14, 1955, was renumbered section 317 by Pub. L. 91-604, and is set out as a note under section 1857 of this title.

PRIOR PROVISIONS

Provisions similar to those contained in subsec. (a) of this section were contained in former section 1857f, act July 14, 1955, ch. 360, § 7, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

1967—Subsec. (b). Pub. L. 90-148 substituted reference to section 246 of this title for reference to section 246(c) of this title.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857j. Records and audit.

(a) Each recipient of assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter. (July 14, 1955, ch. 360, title III, § 311, formerly § 11, as added Dec. 17, 1963, Pub. L. 88–206, § 1, 77 Stat. 401, renumbered § 304, Oct. 20, 1965, Pub. L. 89–272, title I, § 101(4), 79 Stat. 992, and amended Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 505, renumbered § 311, and amended Dec. 31, 1970, Pub. L. 91–604, §§ 12(a), 15(c)(a), 84 Stat. 1705, 1713.)

AMENDMENTS

1970—Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare".

1967—Pub. L. 90–148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857f–5a of this title.

§ 1857j–1. Comprehensive economic cost studies.

(a) In order to provide the basis for evaluating programs authorized by this chapter and the development of new programs and to furnish the Congress with the information necessary for authorization of appropriations by fiscal years beginning after June 30, 1969, the Administrator, in cooperation with State, interstate, and local air pollution control agencies, shall make a detailed estimate of the cost of carrying out the provisions of this chapter; a comprehensive study of the cost of program implementation by affected units of government; and a comprehensive study of the economic impact of air quality standards on the Nation's industries, communities, and other contributing sources of pollution, including an analysis of the national requirements for and the cost of controlling emissions to attain such standard of air quality as may be established pursuant to this chapter or applicable State law. The Administrator shall submit such detailed estimate and the results of such comprehensive study of cost for the five-year period beginning July 1, 1969, and the results of such other studies, to the Congress not later than January 10, 1969, and shall submit a reevaluation of such estimate and studies annually thereafter.

(b) The Administrator shall also make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs assisted pursuant to this chapter and other programs for the same purpose as this chapter; (2) means of using existing Federal training programs to train such personnel; and (3) the need for additional trained personnel to develop, operate and maintain those pollution control facilities designed and installed to implement air quality standards. He shall report the results of such investigation and study to the President and the Congress not later than July 1, 1969. (July 14, 1955, ch. 360, title III, § 312, formerly § 305, as added Nov. 21, 1967, Pub. L. 90–148, § 2, 81 Stat. 505, renumbered and amended Dec. 31, 1970, Pub. L. 91–604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713.)

AMENDMENTS

1970—Pub. L. 91–604, § 15(c)(2), substituted "Administrator" for "Secretary" wherever appearing.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857j–2. Additional reports to Congress.

Not later than six months after November 21, 1967, and not later than January 10 of each calendar year beginning after such date, the Administrator shall report to the Congress on measures taken toward implementing the purpose and intent of this chapter including, but not limited to, (1) the progress and problems associated with control of automotive exhaust emissions and the research efforts related thereto; (2) the development of air quality criteria and recommended emission control requirements; (3) the status of enforcement actions taken pursuant to this chapter; (4) the status of State ambient air standards setting, including such plans for implementation and enforcement as have been developed; (5) the extent of development and expansion of air pollution monitoring systems; (6) progress and problems related to development of new and improved control techniques; (7) the development of quantitative and qualitative instrumentation to

monitor emissions and air quality; (8) standards set or under consideration pursuant to subchapter II of this chapter; (9) the status of State, interstate, and local pollution control programs established pursuant to and assisted by this chapter; and (10) the reports and recommendations made by the President's Air Quality Advisory Board. (July 14, 1955, ch. 360, title III, § 313, formerly § 306, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), (84 Stat. 1705, 1713.)

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary".

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857j-3. Labor standards.

The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects assisted under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the locality as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (July 14, 1955, ch. 360, title III, § 314, formerly § 307, as added Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 15(c)(2), 84 Stat. 1705, 1713.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, which is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Pub. L. 91-604, § 15(c)(2), substituted "Administrator" for "Secretary" meaning the Secretary of Health, Education, and Welfare.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 1857k. Separability of provisions.

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter shall not be affected thereby. (July 14, 1955, ch. 360, title III, § 315, formerly § 12, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, renumbered § 305, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), 79 Stat. 992, amended and renumbered § 308, Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 315, Dec. 31, 1970, Pub. L. 91-604, § 12(a), 84 Stat. 1705.)

AMENDMENTS

1967—Pub. L. 90-148 reenacted section without change.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred in in section 1857c of this title.

§ 1857l. Appropriations.

There are authorized to be appropriated to carry out this chapter, other than sections 1857b(f)(3) and (d), 1857b-1, 1857f-6e, and 1858a of this title, $125,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for the fiscal year ending June 30, 1972, and $300,000,000 for the fiscal year ending June 30, 1973. (July 14, 1955, ch. 360, title III, § 316, formerly § 13, as added Dec. 17, 1963, Pub. L. 88-206, § 1, 77 Stat. 401, amended and renumbered § 306, Oct. 20, 1965, Pub. L. 89-272, title I, § 101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, § 2(a), 80 Stat. 954, renumbered § 309, and amended Nov. 21, 1967, Pub. L. 90-148, § 2, 81 Stat. 506, renumbered § 316, and amended Dec. 31, 1970, Pub. L. 91-604, §§ 12(a), 13(b), 84 Stat. 1705, 1709.)

PRIOR PROVISIONS

Provisions similar to this section were contained in former section 1857d, act July 14, 1955, ch. 360, § 5, 69 Stat. 322, as amended Sept. 22, 1959, Pub. L. 86-365,

§ 1, 73 Stat. 646; Oct. 9, 1962, Pub. L. 87-761, § 1, 76 Stat. 760, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1970—Pub. L. 91-604, § 13(b), substituted provisions authorizing appropriations for the fiscal years June 30, 1971, June 30, 1972, and June 30, 1973, for provisions authorizing appropriations of $74,000,000 for fiscal year ending June 30, 1968, $95,000,000 for fiscal year ending June 30, 1969, and $134,000,000 for fiscal year ending June 30, 1970, and added sections 1857b(f)(3), 1857f-6e, and 1858a of this title to the enumeration of excepted sections.

1967—Pub. L. 90-148 inserted provision excepting sections 1857b(d) and 1857b-1 of this title from the sections for which appropriations are authorized, struck out provision authorizing an appropriations of $46,000,000 for the fiscal year ending June 30, 1967, raised from $66,000,000 to $74,000,000 the authorization for appropriation for fiscal year ending June 30, 1968, and from $74,000,000 to $95,000,000 the authorization for appropriation for fiscal year ending June 30, 1969, and added authorization for an appropriation of $134,300,000 for the fiscal year ending June 30, 1970.

1966—Pub. L. 89-675 substituted provisions authorizing appropriations to carry out the chapter of $46,000,000 for the fiscal year ending June 30, 1967, $66,000,000 for the fiscal year ending June 30, 1968, and $74,000,000 for the fiscal year ending June 30 1969 for provisions authorizing appropriations to carry out subchapter I of this chapter for fiscal years ending on June 30, 1965, 1966, and 1967.

1965—Pub. L. 89-272 deleted former subsec. (a), which authorized an appropriation of not to exceed $5,000,000 for the fiscal year ending June 30, 1964 to carry out section 1857c of this title, redesignated former subsec. (b) as the entire section, and substituted "title I" for "this Act", which for purposes of codification has been changed to "subchapter I of this chapter."

EXTENSION TO AUG. 31, 1970, OF AUTHORIZATION PERIOD FOR FISCAL YEAR 1970

Pub. L. 91-316, July 10, 1970, 84 Stat. 416, provided, in part, that the authorization contained in section 309 of the Clean Air Act [this section] for the fiscal year ending June 30, 1970, should remain available through Aug. 31, 1970, notwithstanding any provisions of this section.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SUBCHAPTER IV.—NOISE POLLUTION

§ 1858. Office of Noise Abatement and Control; investigation and study of noise and its effects on the public health and welfare; report and recommendations by December 31, 1971.

(a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare in order to (1) identify and classify causes and sources of noise, and (2) determine—

(A) effects at various levels;

(B) projected growth of noise levels in urban areas through the year 2000;

(C) the psychological and physiological effect on humans;

(D) effects of sporadic extreme noise (such as jet noise near airports) as compared with constant noise;

(E) effect on wildlife and property (including values);

(F) effect of sonic booms on property (including values); and

(G) such other matters as may be of interest in the public welfare.

(b) In conducting such investigation, the Administrator shall hold public hearings, conduct research, experiments, demonstrations, and studies. The Administrator shall report the results of such investigation and study, together with his recommendations for legislation or other action, to the President and the Congress not later than one year after December 31, 1970.

(c) In any case where any Federal department or agency is carrying out or sponsoring any activity resulting in noise which the Administrator determines amounts to a public nuisance or is otherwise objectionable, such department or agency shall consult with the Administrator to determine possible means of abating such noise. (July 14, 1955, ch. 360, title IV, § 402, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709.)

SHORT TITLE

Section 401 of act July 14, 1955, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1709, provided that: "This title [this subchapter] may be cited as the 'Noise Pollution and Abatement Act of 1970'."

§ 1858a. Authorization of appropriations.

There is authorized to be appropriated such amount, not to exceed $30,000,000, as may be necessary for the purposes of this subchapter. (July 14, 1955, ch. 360, title IV, § 403, as added Dec. 31, 1970, Pub. L. 91-604, § 14, 84 Stat. 1710.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857*l* of this title.

Chapter 16.—NATIONAL SCIENCE FOUNDATION

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1862. Functions.
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(b) Contracts, grants, loans, etc., for scientific activities; financing of programs.
(c) Scientific research programs at academic and other nonprofit institutions; applied scientific research programs by Presidential directive; employment of consulting services; coordination of activities.
(d) Promotion of basic research and education in the sciences.
(e) Balancing of research and educational activities in the sciences.
(f) Annual report to the President and Congress.
1863. National Science Board.
(a) Composition; appointment; establishment of policies of the Foundation.
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Sec.
1863. National Science Board.—Continued
(c) Qualifications for Board membership; recommendations.
(d) Term of office; reappointment.
(e) Meetings; quorum; notice.
(f) Election of Chairman and Vice Chairman; vacancy.
(g) Annual report to the President and Congress; recommendations.
(h) Appointment and assignment of staff; compensation; security requirements.
(i) Special commissions.
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1864. Director of Foundation.
(a) Appointment; compensation; term of office.
(b) Exercise of authority of Foundation; actions as final and binding upon the Foundation.
(c) Delegation and redelegation of functions.
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1864a. Deputy Director of the Foundation; Assistant Directors; appointment; compensation; powers and duties.
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1870. General authority of Foundation.
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(e) Federal officers as members of special commissions; compensation.
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1874. Security provisions.
(a) Nuclear energy research and development.
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1875. Appropriations.
1876. Science Information Service; functions.
1877. Science Information Council.
(a) Establishment; membership; elections and appointments; tenure; reappointment.
(b) Duties and meetings.
(c) Compensation and allowance for expenses.
1878. Functions relating to Science Information Service and Council.
1879. Appropriations for Science Information Service and Council.
Sec.
1880. National Medal of Science.
1881. Same; award; number; citizenship; ceremonies.
1882. Information furnished to Congressional committees.

§ 1861. Establishment; composition.

There is established in the executive branch of the Government an independent agency to be known as the National Science Foundation (hereinafter referred to as the "Foundation"). The Foundation shall consist of a National Science Board (hereinafter referred to as the "Board") and a Director. (May 10, 1950, ch. 171, § 2, 64 Stat. 149.)

SHORT TITLE

Section 1 of act May 10, 1950, provided that act May 10, 1950, which is classified to this chapter, should be popularly known as the "National Science Foundation Act of 1950."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION

Amendments by Pub.L. 90–407, July 18, 1868, 82 Stat. 360, intended to continue in effect the existing offices, procedures, and organization of the Foundation as provided by this chapter, part II of Reorg.Plan No. 2 of 1962 [set out below], and Reorg.Plan, No. 5 of 1965 [set out in Appendix to Title 5], but on and after July 18, 1968, part II of Reorg.Plan No. 2 of 1962, and Reorg.Plan No. 5 of 1965, as being of no force or affect, and nothing in Pub.L. 90–407 as altering or affecting any transfers of functions made by part I of Reorg.Plan No. 2 of 1962, see section 16 of Pub.L. 90–407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of this title.

REORGANIZATION PLAN NO. 2 OF 1962

Eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, as amended Aug. 14, 1964, Pub. L. 88–426, title III, § 305(41), 78 Stat. 427

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 29, 1962, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [chapter 9 of Title 5].

CERTAIN SCIENCE AGENCIES AND FUNCTIONS

PART I. OFFICE OF SCIENCE AND TECHNOLOGY

Section 1. Office of Science and Technology. There is hereby established in the Executive Office of the President the Office of Science and Technology, hereafter in this Part referred to as the Office.

Sec. 2. Director and deputy. (a) There shall be at the head of the Office the Director of the Office of Science and Technology, hereafter in this Part referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate.

(b) There shall be in the Office a Deputy Director of the Office of Science and Technology, who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or in the event of vacancy in the office of Director.

(c) No person shall while holding office as Director or Deputy Director engage in any other business, vocation, or employment.

Sec. 3. Transfer and performance of functions. (a) There are hereby transferred from the National Science Foundation to the Director:

(1) So much of the functions conferred upon the Foundation by the provisions of section 3(a)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1) [section 1862(a)(1) of this title]) as will enable the Director to advise and assist the President in achieving coordinated Federal policies for the promotion of basic research and education in the sciences.

(2) The functions conferred upon the Foundation by that part of section 3(a)(6) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(6)) which reads as follows: "to evaluate scientific research programs undertaken by agencies of the Federal Government."

(b) In carrying out the functions transferred by the provisions of section 3(a) of this reorganization plan, the Director shall assist the President as he may request with respect to the coordination of Federal scientific and technological functions and agencies.

(c) The Director may from time to time make such provisions as he deems appropriate authorizing the performance of any of his functions by any other officer, or by any employee or agency, of the Office.

Sec. 4. Personnel. The Director may appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.

PART II. NATIONAL SCIENCE FOUNDATION

Sec. 21. Executive Committee. (a) There is hereby established the Executive Committee of the National Science Board, hereafter in this Part referred to as the Executive Committee, which shall be composed of five voting members. Four of the members shall be elected as hereinafter provided. The Director provided for in section 22 of this reorganization plan, ex officio, shall be the fifth member and the chairman of the Executive Committee.

(b) At its annual meeting held in 1964 and at each of its succeeding annual meetings the National Science Board, hereafter in this Part referred to as the Board, shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person who has been a member of the Executive Committee (established by this reorganization plan) for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) At is first meeting held after the effective date of this section the Board shall elect four of its members as members of the Executive Committee. As designated by the Board, two of the Executive Committee members so elected shall hold office as such members until the date of the annual meeting of the Board held in 1964 and the other two members so elected shall hold such office until the annual meeting of the Board held in 1965.

(d) Any person elected as a member of the Executive Committee to fill a vacancy occuring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(e) The functions conferred upon the Executive Committee now existing under the provisions of the National Science Foundation Act of 1950 [this chapter], by the provisions of section 6 of the National Science Foundation Act of 1950 (42 U.S.C. 1865) or otherwise, are hereby transferred to the Executive Committee established by the provisions of this Part; and the authority of the National Science Board to assign its powers and functions to the now-existing Executive Commitee, and statutory limitations upon such assignment, shall hereafter be applicable to the Executive Commitee established by the provisions of this Part.

Sec. 22. Director. (a) There is hereby established in the National Science Foundation a new office with the title of Director of the National Science Foundation. The Director of the National Science Foundation, hereafter in this Part referred to as the Director, shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall serve for a term of six years unless sooner removed by the President. The Director shall not engage in any business, vocation or employment other than that of serving as such Director, nor shall he, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any contract or other arrangement under the National Science Foundation Act of 1950 [this chapter].

(b) Except to the extent inconsistent with the provisions of section 23(b)(2) of this reorganization plan, all functions of the office of Director of the National Science Foundation abolished by the provisions of 23(a)(2) hereof are hereby transferred to the office of Director established by the provisions of subsection (a) of this section.

(c) The Director, ex officio, shall be an additional member of the Board and, except in respect of compensation and tenure, shall be coordinate with other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as chairman or vice chairman of the Board.

Sec. 23. Abolitions. (a) The following agencies, now existing under the National Science Foundation Act of 1950 [this chapter], are hereby abolished:

(1) The Executive Committee of the National Science Board (section 6 of Act; 42 U.S.C. 1865 [section 1865 of this title]).

(2) The office of Director of the National Science Foundation (sections 2 and 5 of Act; 42 U.S.C. 1861, 1864).

(b) There are also hereby abolished:

(1) The functions conferred upon the National Science Board by that part of section 6(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1865(a)) which reads "The Board is authorized to appoint from among its members an Executive Committee".

(2) The functions of the Director of the National Science Foundation provided for in sections 4(a) and 5(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(a), 1864(a) with respect to serving as a nonvoting member of the Board and his functions with respect to serving as a nonvoting member of the Executive Committee provided for in section 6(b) of that Act (42 U.S.C. 1865(b)).

(3) So much of the functions conferred upon divisional committees by the provisions of section 8(d) of the National Science Foundation Act of 1950 (42 U.S.C. 1867(d)) as consists of making recommendations to, and advising and consulting with, the Board.

(c) The provisions of sections 23(a)(1) and 23(b)(1) hereof shall become effective on the date of the first meeting of the Board held after the effective date of the other provisions of this reorganization plan.

PART III. TRANSITIONAL PROVISIONS

Sec. 31. Incidental transfers. (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions transferred by the provisions of section 3 of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Science and Technology at such time or times as the said Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 32. Interim officers. (a) The President may authorize any person who immediately prior to the effective date of Part I of the reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Science and Technology until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may authorize any person who immediately prior to the effective date of section 22 of this reorganization plan holds any office existing under the provisions of the National Science Foundation Act of 1950 [this chapter] to act as Director of the National Science Foundation until the Office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of

this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

§ 1862. Functions.

(a) Initiation and support of studies and programs; scholarships; current register of scientific and technical personnel.

The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 1869 of this title, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by indvidiuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

(6) to maintain a current register of scientific and technical personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal Government; and

(7) to initiate and maintain a program for the determination of the total amount of money for scientific research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress.

(b) Contracts, grants, loans, etc., for scientific activities; financing of programs.

The Foundation is authorized to initiate and support specific scientific acitivities in connection with matters relating to international cooperation or national security by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such scientific activities when initiated or supported pursuant to requests made by the Secretary of State or the Secretary of Defense shall be financed solely from funds transferred to the Foundation by the requesting Secretary as provided in section 1873(g) of this title, and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate Secretary.

(c) Scientific research programs at academic and other nonprofit institutions; applied scientific research programs by Presidential directive; employment of consulting services; coordination of activities.

In additional to the authority contained in subsections (a) and (b) of this section, the Foundation is authorized to initiate and support scientific research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research relevant to national problems involving the public interest. In exercising the authority contained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agencies of the Federal Government undertaking similar programs in that field.

(d) Promotion of basic research and education in the sciences.

The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) Balancing of research and educational activities in the sciences.

In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be one of the objectives of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

(f) Annual report to the President and Congress.

The Foundation shall render an annual report to the President for submission on or before the 15th day of January of each year to the Congress summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights. (May 10, 1950, ch. 171, § 3, 64 Stat. 149; July 11, 1958, Pub. L. 85–510, § 1, 72 Stat. 353; Sept. 8, 1959, Pub. L. 86–232, § 1, 73 Stat. 467; July 8, 1968, Pub. L. 90–407, § 1, 82 Stat. 360.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90–407 redesignated former subsec. (a)(2) as (a)(1), and, as so redesignated, added social sciences to the enumerated list of sciences. Former subsec. (a)(1) was redesignated as (d).

Subsec. (a)(2). Pub. L. 90–407 redesignated former subsec. (a)(4) as (a)(2), and, as so redesignated, added

social sciences to the enumerated list of sciences. Former subsec. (a)(2) was redesignated as (a)(1).

Subsec. (a)(3). Pub. L. 90–407 redesignated former subsec. (a)(5) as (a)(3). Former subsec. (a)(3) was redesignated as (b).

Subsec. (a)(4). Pub. L. 90–407 added subsec. (a)(4). Former subsec. (a)(4) was redesignated as (a)(2).

Subsec. (a)(5). Pub. L. 90–407 redesignated former subsec. (a)(6) as (a)(5), and, as so redesignated, provided for the employment of consulting services, by grant or contract, to assist in the evaluation of the status and needs of the various sciences as evidenced by the programs and studies undertaken by agencies of the government, by individuals, and by public and private research groups, and provided for the consideration of the results of such evaluations in the correlation of the Foundation's programs with those undertaken by agencies of the government, as well as those undertaken by individuals and by public and private research groups. Former subsec. (a)(5) was redesignated as (a)(3).

Subsec. (a)(6). Pub. L. 90–407 redesignated former subsec. (a)(8) as (a)(6), and, as so redesignated, provided that the register of scientific and technical personnel shall be current, and authorized the Foundation to analyze and interpret the collected data on the availability of, and the current and projected need for, scientific and technical resources in the United States and to make such information available to other agencies of the government for policy formulation. Former subsec. (a)(6) was redesignated as (a)(5).

Subsec. (a)(7). Pub. L. 90–407 added subsec. (a)(7). Former subsec. (a)(7), which provided for the establishment of such special commissions as the Board may from to time deem necessary for the purposes of this chapter, was eliminated.

Subsec. (a)(8). Pub. L. 90–407 redesignated former subsec. (a)(8) as (a)(6).

Subsec. (a)(9). Pub. L. 90–407 struck out subsec. (a)(9), which authorized the Foundation to initiate and support a program of study, research, and evaluation in the field of weather modification, with particular attention to areas experiencing floods, drought, etc., and to report annually to the President and the Congress thereon.

Subsec. (b). Pub. L. 90–407 redesignated former subsec. (a)(3) as (b), and, as so redesignated, substituted provisions authorizing the Foundation to initiate and support specific scientific activities in matters related to international cooperation or national security for provisions authorizing the Foundation to initiate and support only scientific research activities, only in matters related to national defense and only when requested to do so by the Secretary of Defense, and added provisions specifying the manner of financing such scientific activities. Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 90–407 added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (d). Pub. L. 90–407 redesignated former subsec. (a)(1) as (d), and, as so redesignated, substituted provisions authorizing the Board and the Director to recommend and encourage national policies promoting basic research and education in the sciences for provisions authorizing and directing the Foundation to develop and encourage such policies.

Subsec. (e). Pub. L. 90–407 redesignated former subsec. (b) as (e), and, as so redesignated, substituted "the foregoing subsections" for "subsection (a) of this section", "strengthen research" for "strengthen basic research", and struck out the reference to the territories and possessions of the United States.

Subsec. (f). Pub. L. 90–407 redesignated former subsec. (c) as (f), and, as so redesignated, struck out the provision requiring the report to include the minority views and recommendations if any, of members of the Board.

1959—Subsec. (a)(2). Pub. L. 86–232 clarified the Foundation's authority to support programs to strengthen scientific research potential.

1958—Subsec. (a)(9). Pub. L. 85–510 added subsec. (a)(9).

TRANSFER OF FUNCTIONS

Transfer of those functions under subsection (a)(1) of this section from the Foundation to the Director of the Office of Science and Technology as will enable him to advise and assist the President in achieving coordinated Federal policies for the promotion of basic research and education in the sciences, see section 3(a)(1) of 1962 Reorg. Plan No. 2, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

Functions under subsection (a)(6) of this section relating to evaluation of scientific research programs undertaken by agencies of the Federal Government transferred to the Director of the Office of Science and Technology by section 3(a)(2) of 1962 Reorg. Plan No. 2, set out as a note under section 1861 of this title.

CONTINUATION OF AUTHORIZATION FOR WEATHER MODIFICATION PROGRAMS; REPEAL

Section 11(1) of Pub. L. 90–407 provided in part that the authorization for the programs initiated under former subsec. (a)(9) of this section shall continue in effect until Sept. 1, 1968 for the purposes of section 1872a of this title.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Section 16 of Pub. L. 90–407 provided that: "Except as otherwise specifically provided therein, the amendments made by this Act [which enacted section 1864a of this title, amended this section, sections 1863—1866, 1868—1870, 1872—1875, and 1877 of this title, sections 5313, 5314, and 5316 of title 5, Government Organization and Employees, repealed sections 1867, and 1872a of this title, and enacted provisions set out as a note under section 5313 of Title 5] are intended to continue in effect under the National Science Foundation Act of 1950 [this chapter] the existing offices, procedures, and organization of the National Science Foundation as provided by such Act, [this chapter] part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965 [set out in Appendix to Title 5]. From and after the date of the enactment of this Act [July 18, 1968], part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965, shall be of no force or effect; but nothing in this Act shall alter or affect any transfers of functions made by part I of such Reorganization Plan Numbererd 2 of 1962."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Director of the National Science Foundation, see Parts 1, 23, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

INVESTIGATION OF NEED FOR GEOPHYSICAL INSTITUTE IN TERRITORY OF HAWAII

Joint Res. Aug. 1, 1956, ch. 865, 70 Stat. 922, directed the National Science Foundation to conduct an investigation into the need for and the feasibility and usefulness of a geophysical institute located in the Territory of Hawaii. The Foundation was required to report the results of its investigations, together with its recommendations based thereon, to the Congress not later than 9 months after Aug. 1, 1956.

DENIAL OF FINANCIAL ASSISTANCE TO CAMPUS DISRUPTERS

Section 5 of Pub. L. 91–386, July 24, 1970, 84 Stat. 471, provided that:

"(a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act [July 24, 1970] and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institu-

tion denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c)

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act [July 24, 1970], and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(c) The programs referred to in subsections (a) and (b) are as follows:

"(1) The programs authorized by the National Science Foundation Act of 1950 [this chapter]; and

"(2) The programs authorized under title IX of the National Defense Education Act of 1958 [sections 1876 to 1879 of this title] relating to establishing the Science Information Service.

"(d)(1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions."

Ex. Ord. No. 10521. Administration of Scientific Research

Ex. Ord. No. 10521, Mar. 17, 1954, 19 F.R. 1499, as amended by Ex. Ord. No. 10807, § 6(b), Mar. 13, 1959, 24 F.R. 1899, provided:

Section 1. The National Science Foundation (hereinafter referred to as the Foundation) shall from time to time recommend to the President policies for the promotion and support of basic research and education in the sciences, including policies with respect to furnishing guidance toward defining the responsibilities of the Federal Government in the conduct and support of basic scientific research.

Sec. 2. The Foundation shall continue to make comprehensive studies and recommendations regarding the Nation's scientific research effort and its resources for scientific activities, including facilities and scientific personnel, and its foreseeable scientific needs, with particular attention to the extent of the Federal Government's activities and the resulting effects upon trained scientific personnel. In making such studies, the Foundation shall make full use of existing sources of information and research facilities within the Federal Government.

Sec. 3. The Foundation, in concert with each Federal agency concerned, shall review the basic scientific research programs and activities of the Federal Government in order, among other purposes, to formulate methods for strengthening the administration of such programs and activities by the responsible agencies, and to study areas of basic research where gaps or undesirable overlapping of support may exist, and shall recommend to the heads of agencies concerning the support given to basic research.

Sec. 4. As now or hereafter authorized or permitted by law, the Foundation shall be increasingly responsible for providing support by the Federal Government for general-purpose basic research through contracts and grants. The conduct and support by other Federal agencies of basic research in areas which are closely related to their missions is recognized as important and desirable, especially in response to current national needs, and shall continue.

Sec. 5. The Foundation, in consultation with educational institutions, the heads of Federal agencies, and the Commissioner of Education of the Department of Health, Education, and Welfare, shall study the effects upon educational institutions of Federal policies and administration of contracts and grants for scientific research and development, and shall recommend policies and procedures which will promote the attainment of general national research objectives and realization of the research needs of Federal agencies while safeguarding the strength and independence of the Nation's institutions of learning.

Sec. 6. The head of each Federal agency engaged in scientific research shall make certain that effective executive, organizational, and fiscal practices exist to ensure (a) that the Foundation is consulted on policies concerning the support of basic research, (b) that approved scientific research programs conducted by the agency are reviewed continuously in order to preserve priorities in research efforts and to adjust programs to meet changing conditions without imposing unnecessary added burdens on budgetary and other resources, (c) that applied research and development shall be undertaken with sufficient consideration of the underlying basic research and such other factors as relative urgency, project costs, and availability of manpower and facilities, and (d) that, subject to considerations of security and applicable law, adequate dissemination shall be made within the Federal Government of reports on the nature and progress of research projects as an aid to the efficiency and economy of the overall Federal scientific research program.

Sec. 7. Federal agencies supporting or engaging in scientific research shall, with the assistance of the Foundation, cooperate in an effort to improve the methods of classification and reporting of scientific research projects and activities, subject to the requirements of security of information.

Sec. 8. To facilitate the efficient use of scientific research equipment and facilities held by Federal agencies:

(a) the head of each such agency engaged in scientific research shall, to the extent practicable, encourage and facilitate the sharing with other Federal agencies of major equipment and facilities; and

(b) a Federal agency shall procure new major equipment or facilities for scientific research purposes only after taking suitable steps to ascertain that the need cannot be met adequately from existing inventories or facilities of its own or of other agencies; and

(c) the Interdepartmental Committee on Scientific Research and Development shall take necessary steps to ensure that each Federal agency engaged directly in scientific research is kept informed of selected major equipment and facilities which could serve the needs of more than one agency. Each Federal agency possessing such equipment and facilities shall maintain appropriate records to assist other agencies in arranging for their joint use or exchange.

Sec. 9. The heads of the respective Federal agencies shall make such reports concerning activities within the purview of this order as may be required by the President.

Sec. 10. The National Science Foundation shall provide leadership in the effective coordination of the scientific information activities of the Federal Government with a view to improving the availability and dissemination of scientific information. Federal agencies shall cooperate with and assist the National Science Foundation in the performance of this function, to the extent permitted by law.

Ex. Ord. No. 10807. Federal Council for Science and Technology

Ex. Ord. No. 10807, Mar. 13, 1959, 24 F.R. 1897, as amended by Ex. Ord. No. 11381, Nov. 8, 1967, 32 F.R. 15629, provided:

Section 1. *Establishment of Council.* (a) There is hereby established the Federal Council for Science and Technology (hereinafter referred to as the Council).

(b) The Council shall be composed of the Special Assistant to the President for Science and Technology

and one representative of each of the following: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development. Department of the Interior, Department of State, Department of Transportation, Atomic Energy Commission, National Aeronautics and Space Administration, and National Science Foundation. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned, and, in the case of the Atomic Energy Commission, shall be its Chairman or another member of the Commission designated by the Chairman of the Commission. A representative of the Director of the Bureau of the Budget designated by the Director may attend meetings of the Council as an observer.

(c) The Chairman of the Council (hereinafter referred to as the Chairman) shall be designated by the President from time to time from among the members thereof. The Chairman may make provision for another member of the Council, with the consent of such member, to act temporarily as Chairman.

(d) The Chairman (1) may request the head of any Federal agency not named in section 2(b) of this order to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to the agency, and (2) may invite other persons to attend meetings of the Council.

(e) The Council shall meet at the call of the Chairman.

SEC. 2. *Functions of Council.* (a) The Council shall consider problems and developments in the fields of science and technology and related activities affecting more than one Federal agency or concerning the over-all advancement of the Nation's science and technology, and shall recommend policies and other measures (1) to provide more effective planning and administration of Federal scientific and technological programs, (2) to identify research needs including areas of research requiring additional emphasis, (3) to achieve more effective utilization of the scientific and technological resources and facilities of Federal agencies, including the elimination of unnecessary duplication, and (4) to further international cooperation in science and technology. In developing such policies and measures the Council, after consulting, when considered appropriate by the Chairman, the National Academy of Sciences, the President's Science Advisory Committee, and other organizations, shall consider (i) the effects of Federal research and development policies and programs on non-Federal programs and institutions, (ii) long-range program plans designed to meet the scientific and technological needs of the Federal Government, including manpower and capital requirements, and (iii) the effects of non-Federal programs in science and technology upon Federal research and development policies and programs.

(b) The Council shall consider and recommend measures for the effective implementation of Federal policies concerning the administration and conduct of Federal programs in science and technology.

(c) The Council shall perform such other related duties as shall be assigned, consonant with law, by the President or by the Chairman.

(d) The Chairman shall, from time to time, submit to the President such of the Council's recommendations or reports as require the attention of the President by reason of their importance or character.

SEC. 3. *Agency assistance to Council.* (a) For the purpose of effectuating this order, each Federal agency represented on the Council shall furnish necessary assistance to the Council in consonance with section 214 of the act of May 3, 1945, 59 Stat. 134 (31 U.S.C. § 691). Such assistance may include (1) detailing employees to the Council to perform such functions, consistent with the purposes of this order, as the Chairman may assign to them, and (2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned to the Council.

(b) Upon request of the Chairman, the heads of Federal agencies shall, so far as practicable, provide the Council with information and reports relating to the scientific and technological activities of the respective agencies.

SEC. 4. *Standing committees and panels.* For the purpose of conducting studies and making reports as directed by the Chairman, standing committees and panels of the Council may be established in consonance with the provisions of section 214 of the act of May 3, 1945, 59 Stat. 134 (31 U.S.C. § 691). At least one such standing committee shall be composed of scientist-administrators representing Federal agencies, shall provide a forum for consideration of common administrative policies and procedures relating to Federal research and development activities and for formulation of recommendations thereon, and shall perform such other related functions as may be assigned to it by the Chairman of the Council.

SEC. 5. *Security procedures.* The Chairman shall establish procedures to insure the security of classified information used by or in the custody of the Council or employees under its jurisdiction.

SEC. 6. *Other orders; construction of orders.* (a) Executive Order No. 9912 of December 24, 1947, entitled "Establishing the Interdepartmental Committee on Scientific Research and Development," is hereby revoked.

(b) Executive Order No. 10521 of March 17, 1954 [set out as a note under this section], entitled "Administration of Scientific Research by Agencies of the Federal Government," is hereby amended:

(1) By substituting for section 1 thereof the following:

"SECTION 1. The National Science Foundation (hereinafter referred to as the Foundation) shall from time to time recommend to the President policies for the promotion and support of basic research and education in the sciences, including policies with respect to furnishing guidance toward defining the responsibilities of the Federal Government in the conduct and support of basic scientific research."

(2) By inserting before the words "scientific research programs and activities" in section 3 thereof the word "basic".

(3) (i) By adding the word "and" at the end of paragraph (a) of section 8 thereof, (ii) by deleting the semicolon and the word "and" at the end of paragraph (b) of section 8 and inserting in lieu thereof a period, and (iii) by revoking paragraph (c) of section 8.

(4) By adding at the end of the order a new section 10 reading as follows:

"SEC. 10. The National Science Foundation shall provide leadership in the effective coordination of the scientific information activities of the Federal Government with a view to improving the availability and dissemination of scientific information Federal agencies shall cooperate with and assist the National Science Foundation in the performance of this function, to the extent permitted by law."

(c) The provisions of Executive Order No. 10521, as hereby amended, shall not limit the functions of the Council under this order. The provisions of this order shall not limit the functions of any Federal agency or officer under Executive Order No. 10521, as hereby amended.

(d) The Council shall be advisory to the President and to the heads of Federal agencies represented on the Council; accordingly, this order shall not be construed as subjecting any agency, officer, or function to control by the Council.

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FUNCTIONS AS NOT LIMITED

Section 6(c) of Ex. Ord. No. 10827, set out as a note under this section, provided that Ex. Ord. No. 10521 should not limit functions of Federal Council for Science and Technology under Ex. Ord. No. 10827, and that Ex. Ord. No. 10827 should not limit functions of any agency or officer under Ex. Ord. No. 10521.

§ 1863. National Science Board.

(a) Composition; appointment; establishment of policies of the Foundation.

The Board shall consist of twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, and of the Director

ex officio. In addition to any powers and functions otherwise granted to it by this chapter, the Board shall establish the policies of the Foundation.

(b) Executive Committee; delegation of powers and functions.

The Board shall have an Executive Committee as provided in section 1865 of this title, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this chapter as it deems appropriate.

(c) Qualifications for Board membership; recommendations.

The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific or educational organizations.

(d) Term of office; reappointment.

The term of office of each member of the Board shall be six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

(e) Meetings; quorum; notice.

The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday, and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, by registered mail or certified mail mailed to his last known address of record not less than fifteen days prior to any meeting, of the call such meeting.

(f) Election of Chairman and Vice Chairman; vacancy.

The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Board shall elect a member to fill such vacancy.

(g) Annual report to the President and Congress; recommendations.

The Board shall render an annual report to the President, for submission on or before the 31st day of January of each year to the Congress, on the status and health of science and its various disciplines. Such report shall include an assessment of such matters as national scientific resources and trained manpower, progress in selected areas of basic scientific research, and an indication of those aspects of such progress which might be applied to the needs of American society. The report may include such recommendations as the Board may deem timely and appropriate.

(h) Appointment and assignment of staff; compensation; security requirements.

The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provisions of Title 5 governing appointments in the competitive service, and the provisions of chapter 51 of Title 5 relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–15 of the General Schedule under section 5332 of Title 5, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this chapter. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 1873(a) of this title.

(i) Special commissions.

The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this chapter.

(j) Committees; survey and advisory functions.

The Board is also authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this chapter. (May 10, 1950, ch. 171, § 4, 64 Stat. 150; Sept. 8, 1959, Pub. L. 86–232, § 2, 73 Stat. 467; June 11, 1960, Pub. L. 86–507, § 1(36), 74 Stat. 202; July 18, 1968, Pub. L. 90–407, § 2, 82 Stat. 361.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–407 substituted provisions which authorized the Board to establish the policies of the Foundation in addition to any powers and functions otherwise granted to it by this chapter, for provisions which authorized the Board, except as otherwise provided by this chapter, to exercise the authority granted to the Foundation by this chapter. Provisions of this subsection, which enumerated the qualifications of persons nominated for appointment to the Board and provided for the specified organizations to make recommendations to the President of individuals qualified for nomination, were designated as subsec. (c).

Subsec. (b). Pub. L. 90–407 added subsec. (b). Former subsec. (b) was redesignated as (d).

Subsec. (c). Pub. 90–407 redesignated provisions of former subsec. (a) as (c), and, as so redesignated, added social science and research management to the enumerated fields of eminence, and substituted "the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities" for "the Association of Land Grant Colleges and Universities, the National Association of State Universities, the Association of American Colleges". Former subsec. (c), which provided that "The President shall call the first meeting of the Board, at which the first order of business shall be the election of a chairman and a vice chairman", was eliminated as executed.

Subsec. (d). Pub. L. 90–407 redesignated former subsec. (b) as (d), and, as so redesignated, substituted "term of office of each member" for "term of office of each voting member", struck out "the terms of office of the members first taking office after May 10, 1950, shall expire, as designated by the President at the time of appointment, eight at the end of two years, eight at the end of four years, and eight at the end of six years, after May 10, 1950", and provided for the exemption of the Director from the prohibition against reappointment within two years following twelve consecutive years of Board membership. Former subsec. (d) was redesignated as (e).

Subsec. (e). Pub. L. 90–407 redesignated former subsec. (d) as (e), and, as so redesignated, substituted "A majority of the members of the Board shall constitute a quorum" for "A majority of the voting members of the Board shall constitute a quorum". Former subsec. (e) was redesignated as (f).

Subsec. (f). Pub. L. 90–407 redesignated former subsec. (e) as (f), and, as so designated, substituted provisions that the election of the Chairman and Vice Chairman take place at each annual meeting occurring in an even-numbered year for provisions that their election take place at the first meeting of the National Science Board following the enactment of Pub. L. 86–232, and that thereafter such election take place at the second annual meeting occurring after each such election.

Subsecs. (g)—(j). Pub. L. 90–407 added subsecs. (g)—(j).

1960—Subsec. (d). Pub. L. 86–507 inserted "or by certified mail" following "registered mail."

1959—Subsec. (d). Pub. L. 86–232 changed the annual meeting of the Board from the first Monday in December to the third Monday or other designated day in May.

Subsec. (e). Pub. L. 86–232 substituted provision for an election of a Chairman and Vice Chairman of the Board at the first meeting of the Board following enactment of Pub. L. 86–232 and at each second annual meeting thereafter in place of provision for election of the first Chairman and Vice Chairman to serve until the first Monday in December next succeeding the date of election and for election of subsequent officers for terms of two years thereafter.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this tile.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1868, 1873 of this title.

§ 1864. Director of Foundation.

(a) Appointment; compensation; term of office.

The Director of the Foundation (referred to in this chapter as the "Director") shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of Title 5, and shall serve for a term of six years unless sooner removed by the President.

(b) Exercise of authority of Foundation; actions as final and binding upon the Foundation.

Except as otherwise specifically provided in this chapter (1) the Director shall exercise all of the authority granted to the Foundation by this chapter (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this chapter (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

(c) Delegation and redelegation of functions.

The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this chapter, including functions delegated to him by the Board; except that the Director may not redelegate policymaking functions delegated to him by the Board.

(d) Formulation of programs.

The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

(e) Authority to contract, grant, etc.; limitations and conditions; waiver.

The Director shall not make any contract, grant, or other arrangement pursuant to section 1870(c) of this title without the prior approval of the Board, except that a grant, contract, or other arrangement involving a total commitment of less than $2,000,000, or less than $500,000 in any one year, or a commitment of such lesser amount or amounts and subject to such other conditions as the Board in its discretion may from time to time determine to be appropriate and publish in the Federal Register, may be made if such action is taken pursuant to the terms and conditions set forth by the Board, and if each such action is reported to the Board at the Board meeting next following such action.

(f) Status; power to vote and hold office.

The Director, in his capacity as ex officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board. (May 10, 1950, ch. 171, § 5, 64 Stat. 151; Sept. 8, 1959, Pub. L. 86–232, § 3, 73 Stat. 467; July 18, 1968, Pub. L. 90–407, § 3, 82 Stat. 362.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–407 added the provision prescribing the annual rate of compensation of the Director, and struck out the provisions authorizing the Director to serve as a nonvoting ex officio member of the Board and as the chief executive officer of the Foundation.

Subsec. (b). Pub. L. 90–407 substituted provisions authorizing the Director, except as otherwise provided, to exercise all of the authority granted to the Foundation by this chapter and to take action final and binding upon the Foundation for provisions authorizing the Director, in addition to the powers and duties specifically vested in him by this chapter, to exercise the powers granted by sections 1869 or 1870 (c) of this title and such other

powers and duties delegated by the Board to him, and the proviso that no action taken by the Director pursuant to section 1869 or 1870 (c) shall be final unless in each instance the Board has reviewed and approved the action proposed to be taken, or such action is taken pursuant to the terms of a delegation of authority from the Board or the Executive Committee to the Director.

Subsecs. (c)—(f). Pub. L. 90–407 added subsecs. (c)—(f).

1959—Subsec. (b). Pub. L. 86–232 provided for delegation of authority from the Board or the Executive Committee to the Director.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–407, insofar as related to rates of basic pay, effective on the first day of the first calendar month which begins on or after July 18, 1968, see section 15(a)(4), set out as a note under section 5313 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Authority of Director of the National Science Foundation, from time to time, to make appropriate provisions authorizing the performance by any other officer, or by any agency or employee, of the National Science Foundation of any of his functions (including functions delegated to him by the National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

Office of Director of National Science Foundation established under the provisions of this section abolished and functions transferred to Director of National Science Foundation appointed pursuant to 1962 Reorg. Plan No. 2, see section 22 (a), (b) of 1962 Reorg. Plan No. 2, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

Amendments by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation as provided by this chapter, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965 [set out in Appendix to Title 5], but on and after July 18, 1968, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, as being of no force or effect, and nothing in Pub. L. 90–407 as altering or affecting any transfers of functions made by part I of Reorg. Plan No. 2 of 1962, see section 16 of Pub. L. 90–407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of this title.

§ 1864a. Deputy Director of the Foundation; Assistant Directors; appointment; compensation; powers and duties.

(a) There shall be a Deputy Director of the Foundation (referred to in this chapter as the "Deputy Director"), who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of Title 5, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(b) There shall be four Assistant Directors of the Foundation (each referred to in this chapter as an "Assistant Director"), who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as an Assistant Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. Each Assistant Director shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of Title 5, and shall perform such duties and exercise such powers as the Director may prescribe. (May 10, 1950, ch. 171, § 6, as added July 18, 1968 Pub. L. 90–407, § 4, 82 Stat. 363.)

EFFECTIVE DATE

Section, insofar as related to rates of basic pay, effective on the first day of the first calendar month which begins on or after July 18, 1968, see section 15(a)(4) of Pub. L. 90–407, set out as a note under section 5313 of Title 5, Government Organization and Employees.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§ 1865. Executive Committee.

(a) Composition; powers and function; membership; chairman.

There shall be an Executive Committee of the Board (referred to in this chapter as the "Executive Committee"), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b) of this section, and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

(b) Election to membership; term of office; eligibility for reelection.

At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) Term of vacancy appointment.

Any person elected as a member of the Executive Committee to fill a vacancy occuring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(d) Reports; minority views.

The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports. (May 10, 1950, ch. 171, § 7, formerly § 6, 64 Stat. 151; Sept. 8, 1959, Pub. L.

86-232, § 4, 73 Stat. 467, renumbered and amended July 18, 1968, Pub. L. 90-407, §§ 4, 5, 82 Stat. 363, 364.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407, § 5, made mandatory the organization of the Executive Committee, struck out the prohibition that the Board may not assign to the Executive Committee the function of establishing policies, and added the provisions setting forth the number of members, their manner of election, and the status of the Director.

Subsec. (b). Pub. L. 90-407, § 5, substituted provisions that the Board elect two members as members of the Executive Committee at its annual meeting, with the period between any two consecutive annual meetings to be deemed one year, for provisions covering the composition of the Executive Committee, setting forth a special one year term of office for four members first elected after May 10, 1950, and directing that the membership of the Committee represent diverse interests and areas. Provisions of former subsecs. (b)(2)(A) and (b)(5) were redesignated as subsecs. (c) and (d), respectively.

Subsecs. (c). Pub. L. 90-407, § 5, redesignated former subsec. (b)(2)(A) as (c), and, as so redesignated substituted "Any person elected as a member of the Executive Committee" for "any member elected". Former subsec. (c) authorizing the Board to appoint such additional committees as it deems necessary, and to delegate to such committees survey and advisory functions as it deems appropriate, was eliminated.

Subsec. (d). Pub. L. 90-407, § 5, redesignated former subsec. (b)(5) as (d), and, as so redesignated, substituted "The Executive Committee' for "Such Committee".

1959—Subsec. (a). Pub. L. 86-232 eliminated the prohibition against assignment to the Executive Committee of the function of review and approval.

Subsec. (b)(1). Pub. L. 86-232 authorized the Board to have an Executive Committee consisting of from five to nine members rather than the fixed number of nine.

TRANSFER OF FUNCTIONS

Executive Committee of National Science Board appointed under the provisions of this section abolished and functions conferred by this section transferred to Executive Committee of National Science Board established by 1962 Reorg. Plan No. 2, see sections 21(e) and 23(a)(1) of 1962 Reorg. Plan No. 2, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1863 of this title.

§ 1866. Divisions within Foundation.

There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine. (May 10, 1950, ch. 171, § 8, formerly § 7, 64 Stat. 152, renumbered and amended July 18, 1968, Pub. L. 90-407, §§ 4, 6, 82 Stat. 363, 364.)

AMENDMENTS

1968—Pub. L. 90-407, § 6, substituted provisions that there be within the Foundation such divisions as the Director, in consultation with the Board, may from time to time determine for provisions that, unless otherwise provided by the Board, there be within the Foundation a Division of Medical Research, a Division of Mathematical, Physical, and Engineering Sciences, a Division of Biological Sciences, a Division of Scientific Personnel and Education, and such other divisions as the Board deems necessary.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1867. Repealed. Pub. L. 90-407, § 4, July 18, 1968, 82 Stat. 363.

Section, act May 10, 1950, ch. 171, § 8, 64 Stat. 152, authorized a committee for each division of the Foundation, and provided for the composition, terms of office, chairmenship, rules of procedure, and powers and duties of each divisional committee.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1868. Special commissions; composition; chairman and vice chairman; duties.

(a) Each special commission established pursuant to section 1863(i) of this title shall consist of eleven members appointed by the Board, six of whom shall be eminent scientists and five of whom shall be persons other than scientists. Each special commission shall choose its own chairman and vice chairman.

(b) It shall be the duty of each such special commission to make a comprehensive survey of research, both public and private, being carried on in its field, and to formulate and recommend to the Foundation at the earliest practicable date an over-all research program in its field. (May 10, 1950, ch. 171, § 9, 64 Stat. 152; July 18, 1968, Pub. L. 90-407, § 7, 82 Stat. 364.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407 substituted "section 1863 (i) of this title" for "section 1862 (a)(7) of this title".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1869. Scholarships and graduate fellowships.

The Foundation is authorized to award, within the limits of funds made available specifically for such purpose pursuant to section 1875 of this title, scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time. Persons shall be selected for such scholarships and fellowships from among citizens or nationals of the United States, and such selections shall be made solely on the basis of ability; but in any case in which two or more applicants for scholarships or fellowships, as the case may be, are deemed by the Foundation to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships, as the case may be, available to grant one to each of such applicants, the available scholarship or scholarships or fellowship or fellowships shall be awarded to the

applicants in such manner as will tend to result in a wide distribution of scholarships and fellowships throughout the United States. Nothing contained in this chapter shall prohibit the Foundation from refusing or revoking a scholarship or fellowship award, in whole or in part, in the case of any applicant or recipient, if the Board is of the opinion that such award is not in the best interests of the United States. (May 10, 1950, ch. 171, § 10, 64 Stat. 152; Sept. 8, 1959, Pub. L. 86-232, § 5, 73 Stat. 468; June 29, 1960, Pub. L. 86-550, 74 Stat. 256; Oct. 16, 1962, Pub. L. 87-835, § 2, 76 Stat. 1070; July 18, 1968, Pub. L. 90-407, § 8, 82 Stat. 364.)

AMENDMENTS

1968—Pub. L. 90-407 added social sciences to the enumerated list of sciences, and substituted "throughout the United States" for "among the States, Territories, possessions, and the District of Columbia".

1962—Pub. L. 87-835 authorized the Foundation to refuse or revoke a scholarship or fellowship award if they believe such award is not in the best interests of the United States.

1960—Pub. L. 86-550 authorized the selection of nationals for scholarships and fellowships.

1959—Pub. L. 86-232 substituted "appropriate" for "accredited" and deleted "of higher education" following "foreign institutions".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1862, 1872, 1874 of this title.

§ 1870. General authority of Foundation.

The Foundation shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this chapter, including, but without being limited thereto, the authority—

(a) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(b) to make such expenditures as may be necessary for administering the provisions of this chapter;

(c) to enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific activities as the Foundation deems necessary to carry out the purposes of this chapter, and, at the request of the Secretary of State or Secretary of Defense, specific scientific activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements, or modifications thereof may be entered into without legal consideration, without performance or other bonds, and without regard to section 5 of Title 41;

(d) to make advance, progress, and other payments which relate to scientific activities without regard to the provisions of section 529 of Title 31;

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this chapter;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation;

(g) to publish or arrange for the publication of scientific and technical information so as to further the full dissemination of information of scientific value consistent with the national interest, without regard to the provisions of section 111 of Title 44;

(h) to accept and utilize the services of voluntary and uncompensated personnel and to provide transportation and subsistence as authorized by section 5703 of Title 5, for persons serving without compensation;

(i) to prescribe, with the approval of the Comptroller General of the United States, the extent to which vouchers for funds expended under contracts for scientific research shall be subject to itemization or substantation prior to payment, without regard to the limitations of other laws relating to the expenditure of public funds and accounting therefor; and

(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct. (May 10, 1950, ch. 171, § 11, 64 Stat. 153; Sept. 8, 1959, Pub. L. 86-232, § 6, 73 Stat. 468; July 18, 1968, Pub. L. 90-407, § 9, 82 Stat. 365.)

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-407 substituted "scientific activities" for "basic scientific research activities" and "scientific research activities", "international cooperation or national security" for "national defense", and added "Secretary of State" following "at the request of the".

Subsec. (d). Pub. L. 90-407 substituted "activities" for "research".

Subsec. (h). Pub. L. 90-407 substituted "section 5703 of Title 5" for section 73b-2 of Title 5".

Subsec. (j). Pub. L. 90-407 added subsec. (j).

1959—Subsec. (e). Pub. L. 86-232 included acquisition of property by condemnation.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1864, 1874 of this title.

§ 1871. Patent rights; protection of public interest or equities of individuals or organizations; employees barred.

(a) Each contract or other arrangement executed pursuant to this chapter which relates to scientific research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however,* That nothing in this chapter shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents.

(b) No officer or employee of the Foundation shall acquire, retain, or transfer any rights, under the patent laws of the United States or otherwise, in any invention which he may make or produce in connection with performing his assigned activities and which is directly related to the subject matter thereof: *Provided, however,* That this subsection shall not be construed to prevent any officer or employee of the Foundation from executing any application for patent on any such invention for the purpose of assigning the same to the Government or its nominee in accordance with such rules and regulations as the Director may establish. (May 10, 1950, ch. 171, § 12, 64 Stat. 154.)

REFERENCES IN TEXT

Patent laws of the United States, referred to in subsec. (b), are set out in Title 35, Patents.

§ 1872. International cooperation and coordination with foreign policy.

(a) The Foundation is authorized to cooperate in any international scientific activities consistent with the purposes of this chapter and to expend for such international scientific activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director may defray the expenses of representatives of Government agencies and other organizations and of individual scientists to accredited international scientific congresses and meetings whenever he deem [1] it necessary in the promotion of the objectives of this chapter. In this connection, with the approval of the Secretary of State, the Foundation may undertake programs granting fellowships to, or making other similar arrangements with, foreign nationals for scientific study or scientific work in the United States without regard to section 1869 of this title or the affidavit of allegiance to the United States required by section 1874(d)(2) of this title.

(b) (1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 1870 (c) of this title, and the authority to cooperate in international scientific activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director. (May 10, 1950, ch. 171, § 13, 64 Stat. 154; Sept. 8, 1959, Pub. L. 86-232, § 7, 73 Stat. 468; July 18, 1968, Pub. L. 90-407, § 10, 82 Stat. 365.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407 struck out ", with the approval of the Board," following "The Director", and substituted "section 15(d)(2) of this Act" for "section 16(d)(2) of this Act", which resulted in no substantive change in the text of the present section, since, for purposes of classification, provision was translated as "section 1874(d)(2) of this title" by prior amendment.

1959—Subsec. (a). Pub. L. 86-232 authorized the Foundation, with approval of the Secretary of State, to cooperate in scientific activities rather than scientific research activities, and to grant fellowships or make other arrangements with foreign nationals for scientific study or scientific work in the United States.

Subsec. (b)(1). Pub. L. 86-232 deleted "research" from the phrase "scientific research activities."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1872a. Repealed. Pub. L. 90-407, § 11(1), July 18, 1968, 82 Stat. 365.

Section, act May 10, 1950, ch. 171, § 14, as added July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, authorized the Foundation, in carrying out a program of study, research, and evaluation in the field of weather modification, to consult with meteorologists and scientists, make contracts and grants, accept gifts, loan property, conduct hearings, and subpoena books and records.

EFFECTIVE DATE OF REPEAL

Section 11 (1) of Pub. L. 90-407 provided in part that the repeal of section 14 of the National Science Foundation Act of 1950 [this section] was effective September 1, 1968, and that provisions authorizing the foundation to initiate and support programs in the field of weather modification should remain in effect until September 1, 1968 for purpose of this section.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Repeal by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

§ 1873. Employment of personnel.

(a) Appointment; compensation; application of civil service laws; technical and professional personnel; members of special commissions.

The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter. Except as provided in section 1863(h) of this title, such appointments shall be made and such compensation shall be fixed in accordance with the provisions of Title 5, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and General Schedule pay rates: *Provided,* That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this chapter. The members of the special commissions shall be appointed without regard to the provisions of Title 5, governing appointments in the competitive service.

(b) Outside employment and activities.

Neither the Director, the Deputy Director, nor any Assistant Director shall engage in any other business, vocation, or employment while serving in such position; nor shall the Director, the Deputy Director, or any Assistant Director, except with the approval of the Board, hold any office in, or act in any capacity

[1] So in original.

for, any organization, agency, or institution with which the Foundation makes any grant, contract, or other arrangement under this chapter.

(c) Operation of laboratories and pilot plants.

The Foundation shall not, itself, operate any laboratories or pilot plants.

(d) Compensation of members of Board and special commissions.

The members of the Board and the members of each special commission shall receive compensation at the rate of $100 for each day engaged in the business of the Foundation pursuant to authorization of the Foundation and shall be allowed travel expenses as authorized by section 5703 of Title 5.

(e) Federal officers as members of special commissions; compensation.

Persons holding other offices in the executive branch of the Federal Government may serve as members of special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(f) Utilization of appropriations in making contracts.

In making contracts or other arrangements for scientific research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) adding institutions, agencies, or organizations which, if aided, will advance scientific research, and (4) encouraging independent scientific research by individuals.

(g) Transfer of research funds of other Government departments or agencies.

Funds available to any department or agency of the Government for scientific or technical research, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(h) Definition.

For purposes of this chapter, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(i) Expiration of authorization.

Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made. (May 10, 1950, ch. 171, § 14, 64 Stat. 154, renumbered § 15, July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, amended Sept. 8, 1959, Pub. L. 86-232, § 8, 73 Stat. 469, renumbered § 14, and amended July 18, 1968, Pub. L. 90-407, §§ 11(2), 12, 82 Stat. 365, 366; Nov. 18, 1969, Pub. L. 91-120, § 3, 83 Stat. 203.)

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1969—Subsec. (i). Pub. L. 91-120 added subsec. (i).

1968—Subsec. (a). Pub. L. 90-407, § 12, substituted provisions making applicable chapter 51 and subchapter III of chapter 53 of Title 5, relating to classification and General Schedule pay rates, for provisions making applicable the civil-service laws and regulations and the Classification Act of 1949, and provisions that the members of special commissions be appointed without regard to the provisions of Title 5, governing appointments in the competitive service, for provisions that the Deputy Director, and members of divisional committees and special commissions be appointed without regard to the civil-service laws or regulations. Provisions this subsection, relating to outside employment and activities of certain specified officers of the Foundation, were designated as subsec. (b).

Subsec. (b). Pub. L. 90-407, § 12, redesignated provisions of former subsec. (a) as (b), and, as so redesignated, added Assistant Directors to the specified officers of the Foundation prohibited from engaging in outside employment and activities. Former subsec. (b), providing for the appointment of a Deputy Director, was eliminated.

Subsec. (d). Pub. L. 90-407, § 12, eliminated applicability to members of each divisional committee, and substituted "$100" for "$50" and "section 5703" for "section 73b-2".

Subsec. (e). Pub. L. 90-407, § 12, struck out "the divisional committees and" following "may serve as members of".

Subsec. (f). Pub. L. 90-407, § 12, redesignated former subsec. (g) as (f), and, as so redesignated, in cl. (2) substituted "United States" for "States, Territories, possessions, and the District of Columbia", in cl. (3) substituted "advance scientific research" for "advance basic research", and in cl. (4) substituted "independent scientific research" for "independent basic research". Former subsec. (f), exempting members of the Board, divisional committees, or special commissions form the provisions of former sections 281, 283, or 284 of Title 18 or former section 99 of Title 5, unless the act made unlawful by the aforementioned former sections directly involved or directly interested the Foundation, was eliminated.

Subsec. (g). Pub. L. 90-407 redesignated former subsec. (h) as (g), and, as so redesignated, struck out "and, until such time as an appropriation is made available directly to the Foundation, for general administrative expenses of the Foundation without regard to limitations otherwise applicable to such funds" following "the purposes for which the transfer was made". Former subsec. (g) was redesignated as (f).

Subsec. (h). Pub. L. 90-407 added subsec. (h). Former subsec. (h) was redesignated as (g).

Subsec. (i). Pub. L. 90-407 struck out subsec. (i), which provided for the transfer of the National Roster of Scientific and Specialized Personnel from the United States Employment Service to the Foundation.

1959—Subsec. (d). Pub L. 86-232 increased compensation for $25 to $50 per diem.

TRANSFER OF FUNCTIONS

Authority of Director of the National Science Foundation, from time to time, to make appropriate provisions authorizing the performance by any other officer, or by any agency or employee, of the National Science Foundation of any of his functions (including functions delegated to him by the National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1862, 1863, 1874 of this title.

§ 1874. Security provisions.

(a) Nuclear energy research and development.

The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authority pursuant to section 1870 (e) of this title in respect to that field, without first having obtained the concurrence of the Atomic Energy Commission that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this chapter shall supersede or modify any provision of the Atomic Energy Act of 1954.

(b) Research relating to national defense.

(1) In the case of scientific or technical research activities under this chapter in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 1873 (g) of this title, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific research activities under this chapter in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

(c) Clearance of personnel by Civil Service Commission.

No employee of the Foundation shall be permitted to have access to information or property with respect to which access restrictions have been established under subsection (b) (1) or (2) of this section until the Civil Service Commission shall have made an investigation into the character, associations, and loyalty of such individual and shall have reported the findings of said investigation to the Foundation, and the Foundation shall have determined that permitting such individual to have access to such information or property will not endanger the common defense and security.

(d) Oath and statement prerequisite to acceptance of scholarship or fellowship; ineligibility of Communist organization members; penalties.

(1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this chapter shall be used to make payments under any scholarship or fellowship awarded to any individual under section 1869 of this title, unless such individual—

(A) has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic"; and

(B) has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship.

The provisions of section 1001 of Title 18, shall be applicable with respect to the oath or affirmation and statement herein required.

(2) (A) When any Communist organization, as defined in section 782(5) of Title 50, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of section 1869 of this title, or (ii) to use or attempt to use any such award.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than five years, or both. (May 10, 1950, ch. 171, § 15, 64 Stat. 156; Apr. 5, 1952, ch. 159, § 1, 66 Stat. 43; renumbered § 16, July 11, 1958, Pub. L. 85–510, § 2, 72 Stat. 353, and amended Oct. 16, 1962, Pub. L. 87–835, § 1, 76 Stat. 1069, and renumbered § 15, and amended July 18, 1968, Pub. L. 90–407, §§ 11(2), 13, 82 Stat. 365, 366.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is classified to chapter 23 of this title.

"That Act", referred to in said subsec. (a), refers to the Atomic Energy Act of 1954.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–407, § 13, substituted "1954" for "1946".

Subsec. (b) (1). Pub. L. 90–407, § 13, substituted "section 1873 (g) of this title" for section 1873 (h) of this title".

1962—Subsec. (d). Pub. L. 87–835 designated existing provisions as par. (1), added the reference to section

1869 of this title, and substituted the requirement, for applications made on or after Oct. 1, 1962, of a full statement regarding convictions for crimes, other than any committed before age 16 or for minor traffic violations, and any criminal charges punishable by thirty days confinement, or more, pending at time of application for scholarship or fellowship, for the requirement of an affidavit stating the affiant did not believe in, and was not a member or supporter of any organization believing in, or teaching, the violent overthrow of the United States Government, or by any illegal means, in such par. (1), and added par. (2).

1952—Subsec. (c). Act Apr. 5, 1952, substituted the "Civil Service Commission" for the "Federal Bureau of Investigation".

BASIC SCIENTIFIC RESEARCH; INCREASE IN GOVERNMENT SUPPORT; NATIONAL SCIENCE FOUNDATION

Pub. L. 91-441, title II, § 205, Oct. 7, 1970, 84 Stat. 908, provided that:

"It is the sense of the Congress that—

"(1) an increase in Government support of basic scientific research is necessary to preserve and strengthen the sound technological base essential both to protection of the national security and the solution of unmet domestic needs; and

"(2) a larger share of such support should be provided hereafter through the National Science Foundation."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1872 of this title and in title 5 section 1304.

§ 1875. Appropriations.

(a) To enable the Foundation to carry out its powers and duties, there is hereby authorized to be appropriated to the Foundation for the fiscal year ending June 30, 1969, the sum of $525,000,000; but for the fiscal year ending June 30, 1970, and each subsequent fiscal year, only such sums may be appropriated as the Congress may hereafter authorize by law. Sums authorized by this subsection shall be in addition to sums authorized by section 1122(b)(1) of Title 33.

(b) Appropriations made pursuant to the authority provided in subsection (a) of this section shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations. (May 10, 1950, ch. 171, § 16, 64 Stat. 157; Aug. 8, 1953, ch. 377, 67 Stat. 488, renumbered § 17, July 11, 1958, Pub. L. 85-510, § 2, 72 Stat. 353, and renumbered § 16, and amended July 18, 1968, Pub. L. 90-407, §§ 11(2), (14), 82 Stat. 365, 366.)

CODIFICATION

Section 1122(b)(1) was, in the original, section 201(b)(1) of the Marine Resources and Engineering Development Act of 1966. For purposes of classification, section 201(b)(1) of the Marine Resources and Engineering Development Act of 1966 was translated as section 1122(b)(1) of Title 33 as the probable intent of Congress.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-407, § 14, substituted provisions authorizing the appropriation of funds for the fiscal year ending June 30, 1969, June 30, 1970, and each subsequent fiscal year, such sums to be in addition to sums authorized by section 1122(b)(1) of Title 33, for provisions authorizing the appropriation of such sums as may be necessary to carry out the provisions of this chapter out of any money in the Treasury not otherwise appropriated.

1953—Subsec. (a). Act Aug. 8, 1953, removed the $15 million limitation on the amount of the annual appropriations.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1869 of this title.

§ 1876. Science Information Service; functions.

The National Science Foundation shall establish a Science Information Service. The Foundation, through such Service, shall (1) provide, or arrange for the provision of, indexing, abstracting, translating, and other services leading to a more effective dissemination of scientific information, and (2) undertake programs to develop new or improved methods, including mechanized systems, for making scientific information available. (Pub. L. 85-864, title IX, § 901, Sept. 2, 1958, 72 Stat. 1601.)

CODIFICATION

Section was enacted as part of the National Defense Education Act of 1958, Pub. L. 85-864, and not as part of this chapter, which constitutes the National Science Foundation Act of 1950.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1877, 1878, 1879 of this title.

§ 1877. Science Information Council.

(a) Establishment; membership; elections and appointments; tenure; reappointment.

The National Science Foundation shall establish, in the Foundation, a Science Information Council (hereafter in sections 1876 to 1879 of this title referred to as the "Council") consisting of the Librarian of Congress, the director of the National Library of Medicine, the director of the Department of Agriculture library, and the head of the Science Information Service, each of whom shall be ex officio members, and fifteen members appointed by the Director of the National Science Foundation. The Council shall annually elect one of the appointed members to serve as chairman until the next election. Six of the appointed members shall be leaders in the fields of fundamental science, six shall be leaders in the fields of librarianship and scientific documentation, and three shall be outstanding representatives of the lay public who have demonstrated interest in the problems of communication. Each appointed member of such Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (2) that of the members first appointed, four shall hold office for a term of three years, four shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Director of the National Science Foundation at the time of appointment. No appointed member

of the Council shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) Duties and meetings.

It shall be the duty of the Council to advise, to consult with, and to make recommendations to, the head of the Science Information Service. The Council shall meet at least twice each year, and at such other times as the majority thereof deems appropriate.

(c) Compensation and allowance for expenses.

Persons appointed to the Council shall, while serving on business of the Council, receive compensation at rates fixed by the National Science Foundation, but not to exceed $100 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence. (Pub. L. 85–864, title IX, § 902, Sept. 2, 1958, 72 Stat. 1601; Pub. L. 90–407, § 15(b), July 18, 1968, 82 Stat. 367.)

CODIFICATION

Section was enacted as part of the National Defense Education Act of 1958, Pub. L. 85–864, and not as part of this chapter, which constitutes the National Science Foundation Act of 1950.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90–407 substituted "$100" for "$50".

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407, intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1878, 1879 of this title.

§ 1878. Functions relating to Science Information Service and Council.

In carrying out its functions under sections 1876 to 1879 of this title, the National Science Foundation shall have the same power and authority it has under this chapter to carry out its functions under this chapter. (Pub. L. 85–864, title IX, § 903, Sept. 2, 1958, 72 Stat. 1601.)

CODIFICATION

Section was enacted as part of the National Defense Education Act of 1958, Pub. L. 85–864, and not as part of this chapter, which constitutes the National Science Foundation Act of 1950.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1877, 1879 of this title.

§ 1879. Appropriations for Science Information Service and Council.

There are authorized to be appropriated for the fiscal year ending June 30, 1959, and for each succeeding fiscal year, such sums as may be necessary to carry out the provisions of sections 1876 to 1879 of this title. (Pub. L. 85–864, title IX, § 904, Sept. 2, 1958, 72 Stat. 1602.)

CODIFICATION

Section was enacted as part of the National Defense Education Act of 1958, Pub. L. 85–864, and not as part of this chapter, which constitutes the National Science Foundation Act of 1950.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1877, 1878 of this title.

§ 1880. National Medal of Science.

There is established a National Medal of Science (hereinafter referred to as the "medal"), which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the National Science Foundation, may prescribe, and shall be awarded as provided in section 1881 of this title. (Pub. L. 86–209, § 1, Aug. 25, 1959, 73 Stat. 431.)

CODIFICATION

Section was not enacted as a part of the National Science Foundation Act of 1950 which comprises this chapter.

§ 1881. Same; award; number; citizenship; ceremonies.

(a) The President shall from time to time award the medal, on the basis of recommendations received from the National Academy of Sciences or on the basis of such other information and evidence as he deems appropriate, to individuals who in his judgment are deserving of special recognition by reason of their outstanding contributions to knowledge in the physical, biological, mathematical, or engineering sciences.

(b) Not more than twenty individuals may be awarded the medal in any one calendar year.

(c) An individual may not be awarded the medal unless at the time such award is made he—

(1) is a citizen or other national of the United States; or

(2) is an alien lawfully admitted to the United States for permanent residence who (A) has filed an application for petition for naturalization in the manner prescribed by section 1445(b) of Title 8 and (B) is not permanently ineligible to become a citizen of the United States.

(d) The presentation of the award shall be made by the President with such ceremonies as he may deem proper, including attendance by appropriate Members of Congress. (Pub. L. 86–209, § 2, Aug. 25, 1959, 73 Stat. 431.)

CODIFICATION

Section was not enacted as a part of the National Science Foundation Act of 1950 which comprises this chapter.

§ 1882. Information furnished to Congressional committees.

Notwithstanding any provision of this chapter, or any other provision of law, the Director of the National Science Foundation shall keep the Committee on Science and Astronautics of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation. (Pub. L. 91–120, § 6, Nov. 18, 1969, 83 Stat. 203.)

CODIFICATION

Section was enacted as a part of the National Science Foundation Authorization Act, 1970, and not as a part of the National Science Foundation Act of 1950 which comprises this chapter.

Chapter 16A.—GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH

Sec.
1891. Authorization to make grants.
1892. Same; title to equipment.
1893. Annual report to Congress; contents.

§ 1891. Authorization to make grants.

The head of each agency of the Federal Government, authorized to enter into contracts for basic scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, is authorized, where it is deemed to be in furtherance of the objectives of the agency, to make grants to such institutions or organizations for the support of such basic scientific research. (Pub. L. 85–934, § 1, Sept. 6, 1958, 72 Stat. 1793.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1893 of this title; title 7 section 1623a.

§ 1892. Same; title to equipment.

Authority to make grants or contracts for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, shall include discretionary authority, where it is deemed to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as the agency deems appropriate, title to equipment purchased with such grant or contract funds. (Pub. L. 85–934, § 2, Sept. 6, 1958, 72 Stat. 1793.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1623a.

§ 1893. Annual report to Congress; contents.

Each agency or department of the Federal Government exercising authority granted by this chapter shall make an annual report on or before June 30th of each year to the appropriate committees of both Houses of Congress. Such report shall set forth therein, for the preceding year, the number of grants made pursuant to the authority provided in section 1891 of this title, the dollar amount of such grants, and the institutions in which title to equipment was vested pursuant to section 1892 of this title. (Pub. L. 85–934, § 3, Sept. 6, 1958, 72 Stat. 1793.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 1623a.

Chapter 16B.—CONTRACTS FOR SCIENTIFIC AND TECHNOLOGICAL RESEARCH

Sec.
1900. Interior Department programs.
(a) Authorization for research contracts.
(b) Capabilities of prospective contractors; advice and assistance, coordination of research, lines of inquiry, and cooperation.
(c) Research reports or publications.
(d) Limitation; submission to Congress.
1900a. Rules and regulations.
1900b. Amendment, modification, or repeal of authorizations for execution of contracts for research.

§ 1900. Interior Department programs.

(a) Authorization for research contracts.

The Secretary of the Interior is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department of the Interior which are authorized by statute.

(b) Capabilities of prospective contractors; advice and assistance, coordination of research, lines of inquiry, and cooperation.

The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this section have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department of the Interior, participate in coordinating all research initiated under this section, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the United States Department of the Interior, and other Federal agencies.

(c) Research reports or publications.

The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems desirable on the research carried out pursuant to this section.

(d) Limitation; submission to Congress.

No contract involving more than $25,000 shall be executed under subsection (a) of this section prior to thirty calendar days from the date the same is submitted to the President of the Senate and the Speaker of the House of Representatives and said thirty calendar days shall not include days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. (Pub. L. 89–672, § 1, Oct. 15, 1966, 80 Stat. 951.)

§ 1900a. Rules and regulations.

The Secretary shall prescribe such rules and regulations as he deems necessary to carry out the provisions of this chapter. (Pub. L. 89–672, § 2, Oct. 15, 1966, 80 Stat. 951.)

§ 1900b. Amendment, modification, or repeal of authorizations for execution of contracts for research.

Nothing contained in this chapter is intended to amend, modify, or repeal any provisions of law administered by the Secretary of the Interior which authorize the making of contracts for research. (Pub. L. 89–672, § 3, Oct. 15, 1966, 80 Stat. 951.)

Chapter 17.—FEDERAL EMPLOYMENT SERVICE

§§ 1901 to 1918. Transferred.

CODIFICATION

Sections have been transferred to sections 49 to 49h, 49j, 49k, 49m, and 49n of Title 29, Labor, as follows:

Section 1901 is now section 49.

Section 1902 is now section 49a.
Section 1903 is now section 49b.
Section 1904 is now section 49c.
Section 1905 is now section 49d.
Section 1906 was section 49e and was repealed.
Section 1907 was section 49f and was repealed.
Section 1908 is now section 49g.
Section 1909 is now section 49h.
Section 1910 is now section 49j.
Section 1911 is now section 49k.
Section 1912 is now section 49c-1.
Section 1913 was section 49c-2 and was omitted.
Section 1914 was section 49c-3 and was repealed.
Section 1915 was section 49c-4 and was omitted.
Section 1916 was section 49c-5 and was omitted.
Section 1917 was section 49m and was repealed.
Section 1918 was section 49n and was repealed.

Chapter 18.—YOUTH MEDALS

Sec.
1921. Establishment of medals for bravery; rules and regulations; conditions governing awards.
1922. Establishment of medals for character and service; condition governing awards.
1923. Names of medals; presentation.
1924. Certificate of commendation accompanying awards; limitation on number of yearly awards.
1925. Report to Congress.
1926. Appropriations.

§ 1921. Establishment of medals for bravery; rules and regulations; conditions governing awards.

The Department of Justice be, and it is, authorized and directed to promulgate rules and regulations establishing a medal; the method of selecting such recipient thereof so that an award shall be made to any child residing in the United States, who is eighteen years old or under, who has exhibited exceptional courage, extraordinary decision, presence of mind, and unusual swiftness of action, regardless of his or her own personal safety, in an effort to save or successfully saving the life or lives of any person or persons whose life or lives were in actual imminent danger. (Aug. 3, 1950, ch. 520, § 1, 64 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1923 of this title.

§ 1922. Establishment of medals for character and service; condition governing awards.

The Department of Justice shall also honor by an appropriate medal such American boy or girl citizens, eighteen years old or under, who, in the opinion of the said Department of Justice, shall have achieved outstanding or unusual recognition for character and service during any given year. (Aug. 3, 1950, ch. 520, § 2, 64 Stat. 397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1923 of this title.

§ 1923. Names of medals; presentation.

The medal to be awarded for bravery or valor as defined in section 1921 of this title shall be known as the Young American Medal for Bravery, while the medal for outstanding character and service as defined in section 1922 of this title shall be known as the Young American Medal for Service, and such medals shall be presented personally by the President of the United States for and on behalf, and in the name of the President and the Congress of the United States of America. (Aug. 3, 1950, ch. 520, § 3, 64 Stat. 398.)

§ 1924. Certificate of commendation accompanying awards; limitation on number of yearly awards.

Accompanying such medals designated in this chapter there shall be an appropriate certificate of commendation presented to the recipient or recipients stating (a) the circumstances under which the act of bravery was performed, and (b) citing the outstanding recognition for character and service: *Provided,* That there shall not be awarded in any one calendar year in excess of four such medals, to wit, two for bravery and two for character and service, as herein authorized. (Aug. 3, 1950, ch. 520, § 4, 64 Stat. 398.)

§ 1925. Report to Congress.

It shall be the duty of the Department of Justice to make a report to the Congress at the end of each fiscal year and to furnish the Congress with a list of the names of all those upon whom the President shall have conferred either of such medals. (Aug. 3, 1950, ch. 520, § 5, 64 Stat. 398.)

§ 1926. Appropriations.

It shall also be the duty of the Department of Justice to list in its annual budget request the sum of money necessary to carry out the provisions of this chapter, which sum is authorized in a sum not to exceed $5,000 per annum. (Aug. 3, 1950, ch. 520, § 6, 64 Stat. 398.)

Chapter 19.—WATER RESEARCH AND DEVELOPMENT

Sec.
1951. Congressional policy on conversion of sea and saline waters; definitions.
1952. Duties of Secretary of Interior.
(a) Research and studies for development of processes and methods for converting saline water.
(b) Research and technical development work to develop processes and plant designs; reports to Congress; treatment of test beds.
(c) Recommendation to Congress for prototype plant.
(d) Methods for recovery and marketing of byproducts.
(e) Economic studies and surveys on water production costs.
1953. Powers of the Secretary of Interior.
1954. Coordination or joint conduct of activities with Department of Defense; cooperation with other Federal agencies; availability to public of resulting information and developments.
1955. Disposal of water and byproducts; disposition of monies; alteration of existing law.
1956. Reports.
1957. Rules and regulations.
1958. Authorization of appropriations.
1958a. Demonstration plants for production of consumptive water from saline water.
(a) Number and purpose of plants; selection of process; reports to Congress.
(b) Construction of plants; conditions.
(c) Definition of "demonstration plant".
1958b. Same; contracts for construction, operation and maintenance; operation, maintenance and engineering records; access by public to records and plants.
1958c. Same; acceptance of assistance from State or public agencies; contracts for assistance; availability of contributed funds; return of unexpended funds.
1958d. Same; termination of authority; disposal of plants; return of share of proceeds to contributors.
1958e. Same; powers of Secretary; administration.

Sec.
1958f. Same; contracts for construction, materials, supplies and services; periods; liability of United States; availability of unobligated appropriations for administrative and technical services.
1958g. Same; authorization of appropriations.

§ 1951. Congressional policy on conversion of sea and saline waters; definitions.

In view of the increasing shortage of usable surface and ground water in many parts of the Nation and the importance of finding new sources of supply to meet its present and future water needs, it is the policy of the Congress to provide for the development of practicable low-cost means for the large-scale production of water of a quality suitable for municipal, industrial, agricultural, and other beneficial consumptive uses from saline water, and for studies and research related thereto. As used in sections 1951 to 1958 of this title, the term "saline water" includes sea water, brackish water, and other mineralized or chemically charged water, and the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. (July 3, 1952, ch. 568, § 1, 66 Stat. 328; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 628.)

AMENDMENTS

1961—Pub. L. 87-295 stated the Congressional policy to provide for studies and research related to water conversion, and included the definitions of "saline water" and "United States."

SHORT TITLE

Section 9 of act July 3, 1952, ch. 568, as added June 24, 1967, Pub. L. 90-30, § 1(e), 81 Stat. 78, provided that: "This Act [enacting this section and sections 1952-1958 of this title] may be cited as the 'Saline Water Conversion Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1958a, 1958e, 1958f of this title.

§ 1952. Duties of the Secretary of Interior.

In order to accomplish the purposes of sections 1951 to 1958 of this title, the Secretary of the Interior shall—

Research and studies for development of processes and methods for converting saline water.

(a) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water into water suitable for beneficial consumptive purposes;

Research and technical development work to develop processes and plant designs; reports to Congress; treatment of test beds.

(b) conduct engineering research and technical development work to determine, by laboratory, test bed, module, component, and pilot plant testing, the results of the research and studies aforesaid in order to develop processes and plant designs to the point where they can be demonstrated on a large and practical scale: *Provided,* That a detailed report concerning any test bed plant, module, or component costing in excess of $1,000,000 shall be submitted to the respective Committees on Interior and Insular Affairs of the Senate and the House of Representatives: *Provided further,* That the five demonstration plants authorized by sections 1958a to 1958g of this title, shall hereafter be regarded as test beds subject to the provisions of sections 1951 to 1958 of this title, but the provisions of sections 1958c and 1958f of this title and those provisions of section 1958d of this title relating to the method of disposal and disposition of the proceeds of sale shall continue to be applicable to them;

Recommendation to Congress for prototype plant.

(c) recommend to the Congress from time to time authorization for construction and operation, or for participation in the construction and operation, of a prototype plant for any process which he determines, on the basis of subsections (a) and (b) above, has great promise of accomplishing the purposes of sections 1951 to 1958 of this title, such recommendation to be accompanied by a report on the size, location, and cost of the proposed plant and the engineering and economic details with respect thereto;

Methods for recovery and marketing of byproducts.

(d) study methods for the recovery and marketing of commercially valuable byproducts resulting from the conversion of saline water; and

Economic studies and surveys on water production costs.

(e) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial consumptive purposes in various parts of the United States by the leading saline water processes as compared with other standard methods.

(July 3, 1952, ch. 568, § 2, 66 Stat. 328; June 29, 1955, ch. 227, § 1(1), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87-295, § 1, 75 Stat. 628; Aug. 11, 1965, Pub. L. 89-118, § 1(1), 79 Stat. 509; June 24, 1967, Pub. L. 90-30, § 1(b), (d), 81 Stat. 78.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-30, § 1(b), (c), inserted "test bed," following "laboratory," and added the provisions requiring the submission of reports to both the Senate and House Committees on Interior and Insular Affairs and requiring demonstration plants to be hereafter regarded as test beds subject to the provisions of sections 1951—1958 of this title.

Subsec. (c). Pub. L. 90-30, § 1(d), substituted "prototype plant" for "demonstration plant".

1965—Subsec. (b). Pub. L. 89-118 inserted ", module, component," after "laboratory".

1961—Pub. L. 87-295 amended section generally, and among other changes, directed the Secretary to conduct research to develop processes and plant designs demonstrable on a large scale, to recommend authorization for construction and operation, or for participation in the same, of a demonstration plant for any process with great promise, and to undertake studies and surveys on present and prospective costs, in various parts of the United States, of leading saline water processes as compared with other methods. Prior provisions of this section which related to research grants and contracts, use of facilities of existing scientific laboratories, acquisition of patents, licenses, lands, plant facilities and other property rights, the employment of specialists, and cooperation with other agencies, are now covered by section 1953 of this title.

1955—Subsec. (a). Act June 29, 1955, permitted use of facilities of existing Federal scientific laboratories.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1953, 1954, 1955, 1956, 1957, 1958, 1958a, 1958e, 1958f of this title.

§ 1953. Powers of the Secretary of Interior.

In carrying out his functions under section 1952 of this title, the Secretary may—

(a) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(b) enter into contracts with educational institutions, scientific organizations, and industrial and engineering firms;

(c) make research and training grants;

(d) utilize the facilities of Federal scientific laboratories;

(e) establish and operate necessary facilities and test sites at which to carry on the continuous research, testing, development, and programing necessary to effectuate the purposes of sections 1951 to 1958 of this title;

(f) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

(g) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue bibliographical data with respect thereto;

(h) cause on-site inspections to be made of promising projects, domestic and foreign, and, in the case of projects located in the United States, cooperate and participate in their development in instances in which the purposes of sections 1951 to 1958 of this title will be served thereby;

(i) foster and participate in regional, national, and international conferences relating to saline water conversion;

(j) coordinate, correlate, and publish information with a view to advancing the development of low-cost saline water conversion projects; and

(k) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

(July 3, 1952, ch. 596, § 3, 66 Stat. 329; June 29, 1955, ch. 227, § 1(2), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 628.)

AMENDMENTS

1961—Pub. L. 87–295 enumerated the powers of the Secretary in order to carry out his functions relating to research and development. Prior provisions of this section, which authorized cooperation with the Defense Department, Atomic Energy Commission, and the Civil Defense Administration, are now covered by section 1954 of this title.

1955—Act June 29, 1955, required cooperation with and by the Atomic Energy Commission and the Civil Defense Administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1952, 1954, 1955, 1956, 1957, 1958, 1958a, 1958e, 1958f of this title.

§ 1954. Coordination or joint conduct of activities with Department of Defense; cooperation with other Federal agencies; availability to public of resulting information and developments.

(a) Research and development activities undertaken by the Secretary shall be coordinated or conducted jointly with the Department of Defense to the end that developments under sections 1951 to 1958 of this title which are primarily of a civil nature will contribute to the defense of the Nation and that developments which are primarily of a military nature will, to the greatest practicable extent compatible with military and security requirements, be available to advance the purposes of sections 1951 to 1958 of this title and to strengthen the civil economy of the Nation. The fullest cooperation by and with Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of State, and other concerned agencies shall also be carried out in the interest of achieving the objectives of sections 1951 to 1958 of this title.

(b) All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of sections 1951 to 1958 of this title, shall be provided for in such manner that all information, uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder. (July 3, 1952, ch. 568, § 5, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629.)

AMENDMENTS

1961—Pub. L. 87–295 amended section generally to require activities to be coordinated or conducted jointly with the Department of Defense, cooperation with the Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of State, and other concerned agencies, and availability of all information, uses, products, processes, etc., resulting from research. Prior provision of this section, which related to the disposal of water and byproducts, are covered by section 1955 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1952, 1953, 1955, 1956, 1957, 1958, 1958a, 1958e, 1958f of this title.

§ 1955. Disposal of water and byproducts; disposition of monies; alteration of existing law.

(a) The Secretary may dispose of water and byproducts resulting from his operations under sections 1951 to 1958 of this title. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

(b) Nothing in sections 1951 to 1958 of this title shall be construed to alter existing law with respect to the ownership and control of water. (July 3, 1952, ch. 568, § 5, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629.)

AMENDMENTS

1961—Pub. L. 87–295 authorized the Secretary to dispose of water and byproducts, and stated that existing law shall not be construed to have been altered with respect to ownership and control of water.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1952, 1953, 1954, 1956, 1957, 1958, 1958a, 1958e, 1958f of this title.

§ 1956. Reports.

The Secretary shall make reports to the President and the Congress at the beginning of each regular

session of the action taken or instituted by him under the provisions of sections 1951 to 1958 of this title and of prospective action during the ensuing year. (July 3, 1952, ch. 568, § 6, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629.)

AMENDMENTS

1961—Pub. L. 87–295 directed the Secretary to report on prospective actions, and deleted the requirement that he include recommendations for further legislation.

CROSS REFERENCES

Virgin Islands Corporation's reports to Congress, see section 1407c(o) of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1952, 1953, 1954, 1955, 1957, 1958, 1958a, 1958e, 1958f of this title.

§ 1957. Rules and regulations.

The Secretary of the Interior may issue rules and regulations to effectuate the purposes of sections 1951 to 1958 of this title. (July 3, 1952, ch. 568, § 7, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629.)

AMENDMENTS

1961—Pub. L. 87–295 reenacted section without change.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1952, 1953, 1954, 1955, 1956, 1958, 1958a, 1958e, 1958f of this title.

§ 1958. Authorization of appropriations.

There are authorized to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization acts (a) to carry out the provisions of sections 1951 to 1958 of this title during the fiscal years 1962 to 1972, inclusive; (b) to finance, for not more than two years beyond the end of said period, such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to sections 1951 to 1958 of this title; and (c) to finance, for not more than three years beyond the end of said period, such activities as are required to correlate, coordinate, and round out the results of studies and research undertaken pursuant to sections 1951 to 1958 of this title. Effective July 1, 1968, no new commitments shall be made under authority of sections 1951 to 1958 of this title for cooperation with public or private agencies in foreign countries which require the expenditure of funds appropriated pursuant to sections 1951 to 1958 of this title, but funds so appropriated shall be available to carry out commitments made before said date. (July 3, 1952, ch. 568, § 8, 66 Stat. 329; June 29, 1955, ch. 227, § 1(3), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, § 1, 75 Stat. 629; Aug. 11, 1965, Pub. L. 89–118, § 1(2), 79 Stat. 509; June 24, 1967, Pub. L. 90–30, § 1(a), 81 Stat. 78; Apr. 29, 1968, Pub. L. 90– 297, § 1, 82 Stat. 110.)

AMENDMENTS

1968—Pub. L. 90–297 substituted provisions setting out the 1962–1972 duration of the saline water conversion program and related activities, authorizing appropriations in whatever sums might be specified in annual appropriation authorizations, and setting July 1, 1968, as the deadline on new commitments for cooperation with public or private agencies in foreign countries requiring the expenditure of funds appropriated pursuant to sections 1951—1958 of this title for provisions setting an overall ceiling and remaining balance approach to appropriations, authorizing the Office of Saline Water to cooperate with and enter into contracts or agreements with public or private agencies in foreign countries, and placing a ceiling of $105,782,000, plus additional sums as the Congress might thereafter authorize or appropriate but not to exceed $169,218,000, to carry out the provisions of sections 1951—1958 of this title during fiscal year 1962–1972.

1967—Pub. L. 90–30 substituted "$105,782,000" and "$169,218,000" for "$90,000,000" and "$185,000,000" respectively.

1965—Pub. L. 89–118 increased the authorization for appropriations from $75,000,000 in all to $90,000,000, plus such additional sums as Congress may hereafter authorize and appropriate but not to exceed $185,000,000, and extended from 1967 to 1972 the period during which to carry out the provisions of sections 1951—1958 of this title.

1961—Pub. L. 87–295 increased the authorization to $75,000,000, substituted "1962 to 1967" for "1953 to 1963", required that expenditures in cooperation with foreign agencies be subject to the approval of the Secretary of State, eliminated the limitation restricting such expenditures to 10 per centum of the funds available yearly for research and development, and deleted provisions which limited expenditures for departmental expenses for the direction of the water program and for the correlation and coordination of information to $2,000,000, and for research and development in Federal laboratories to $2,500,000.

1955—Act June 29, 1955, increased the limit of funds authorized from $2,000,000 to $10,000,000; extended the period of the program through fiscal year 1963; authorized financing for not more than two years beyond the end of the program; provided an additional year for coorelating and coordinating the results of study and research; increased the limit of departmental expenses from $500,000 to $2,000,000, and limited expenditures for research and development in Federal Laboratories.

APPROPRIATION AUTHORIZATION FOR FISCAL YEAR 1969

Section 2 of Pub. L. 90–297 provided that:

"There is authorized to be appropriated to carry out the provisions of the Saline Water Conversion Act (66 Stat. 328), as amended (42 U.S.C. 1951 et seq.), during fiscal year 1969 the sum of $24,556,000 as follows:

"(a) Research and development operating expenses, not more than $17,274,000;

"(b) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test beds and test facilities, not more than $4,292,000;

"(c) Design, construction, acquisition, modification, operation, and maintenance of saline waater conversion modules, not more than $1,175,000; and

"(d) Administration and coordination, not more than $1,815,000: *Provided,* That expenditures and obligations under any of these items except the last may be increased by not more than ten per centum if such increase is accompanied by an equal decrease in expenditures and obligations under one or more of the other items, including the last."

EXPENDITURE OF PREVIOUSLY APPROPRIATED FUNDS UNOBLIGATED ON JUNE 30, 1968

Section 3 of Pub. L. 90–297 provided that: "In addition to the sums authorized to be appropriated by this Act [amending this section and enacting material set out as a note under this section], the Secretary may utilize any funds previously appropriated for this program which are not obilgated on June 30, 1968, subject to the dollar limitations applicable to the fiscal year 1968 program."

EXPENDITURE OF UNAPPROPRIATED AND UNOBLIGATED FUNDS TO CARRY OUT PROGRAM FOR FISCAL YEAR 1968

Section 2 of Pub. L. 90–30 provided that:

"Of the amount of $105,782,000 authorized to be appropriated by section 8 of the Saline Water Conversion Act [this section], the unappropriated balance of $23,282,000 may be appropriated and combined with $3,500,000 heretofore, appropriated but remaining unobligated at the end of fiscal year 1967, to carry out the program during the fiscal year 1968, as follows:

"(1) Research and development operating expenses, not more than $18,532,000;

"(ii) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test beds and test facilities, not more than $4,298,000;

"(iii) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules, not more than $2,190,000;

"(iv) Administration and coordination, not more than $1,762,000:

Provided, however, That expenditures and obligations under any of these items except the last may be increased by not more than 10 per centum if such increase is accompanied by an equal decrease in expenditures and obligations under one or more of the other items, including the last."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1951, 1953, 1954, 1955, 1956, 1957, 1958a, 1958e, 1958f of this title.

§ 1958a. Demonstration plants for production of consumptive water from saline water.

(a) Number and purpose of plants; selection of process; reports to Congress.

The Secretary of the Interior shall, pursuant to the provisions of sections 1951 to 1958 of this title, and in accordance with sections 1958a to 1958g of this title, provide for the construction, operation, and maintenance of not less than five demonstration plants for the production, from sea water or brackish water, of water suitable for agricultural, industrial, municipal, and other beneficial consumptive uses. Such plants shall be designed to demonstrate the reliability, engineering, operating, and economic potentials of the sea or brackish water conversion processes which the Secretary shall select from among the most promising of the presently known processes, and each plant shall demonstrate a different process. A decision with respect to the process to be utilized in the first of these five plants shall be made by the Secretary within six months after September 2, 1958 and decisions with respect to the processes to be utilized in the other plants shall follow at intervals of not more than three months. Each such decision shall be reported promptly to the Congress and the construction of the plants shall proceed as rapidly as is possible.

(b) Construction of plants; conditions.

The construction of the demonstration plants referred to above shall be subject to the following conditions:

(1) Not less than three plants shall be designed for the conversion of sea water, and each of two plants so designed shall have a capacity of not less than one million gallons per day;

(2) Not less than two plants shall be designed for the treatment of brackish water, and at least one of the plants so designed shall have a capacity of not less than two hundred and fifty thousand gallons per day; and

(3) Such plants shall be located in the following geographical areas with a view to demonstrating optimum utility from the standpoint of reliable operation, maintenance, and economic potential—

(A) at least one plant which is designed for the conversion of sea water shall be located on the west coast of the United States, at least one such plant shall be located on the east coast thereof, and at least one such plant shall be located on the gulf coast thereof; and

(B) at least one plant which is designed for the treatment of brackish water shall be located in the area generally described as the Northern Great Plains and at least one such plant shall be located in the arid areas of the Southwest.

(c) Definition of "demonstration plant".

As used in sections 1958a to 1958g of this title, the term "demonstration plant" means a plant of sufficient size and capacity to establish on a day-to-day operating basis the optimum attainable reliability, engineering, operating, and economic potential of the particular sea water conversion process or the Secretary of the Interior for utilization in such brackish water treatment process selected by the plant. (Pub. L. 85–883, § 1, Sept. 2, 1958, 72 Stat. 1706.)

SHORT TITLE

Sections 1 to 7 of Pub. L. 85–883, classified to sections 1958a to 1958g of this title, are popularly known as the "Saline Water Demonstration Act".

RECITAL CLAUSE

Recital clause of Pub. L. 85–883, preceding the enactment clause, read as follows:

"Whereas official Government reports show unmistakably that the United States population is multiplying at a rate which by 1980 will triple the demand for supplies of fresh water, which if not available will adversely affect the national defense by jeopardizing the economic welfare and general well-being of vast segments of the population of the United States, as well as the population of some of our Territorial possessions; and

"Whereas many cities, towns, and rural areas are already confronted by shortages of potable water that imperil health; and

"Whereas the expanding population, industry, and agriculture of the United States are becoming increasingly dependent upon an assured augmented supply of fresh water while the future welfare and national defense of the United States rest upon increased sources of fresh water; and

"Whereas research by governmental agencies, educational institutions, and private industry has brought about the evolution, on a limited scale, of methods of desalting sea water and the treatment of brackish water which give promise of ultimate economical results; and

"Whereas the United States Government has the responsibility, along with safeguarding the national defense, and protecting the health, welfare, and economic stability of the country, to transform these experiments into production tests on a scale not possible of achievement otherwise; and

"Whereas the Congress recognized its responsibility in this field by the enactment in 1952 of the Saline Water Act (66 Stat. 328) [sections 1951—1958 of this title], reaffirmed its position by the amendments to such Act in 1955 (69 Stat. 198); and the legislative history of such Acts reveals that the Congress recognized even then that the time had arrived for tackling the problem more realistically and effectively, but unfortunately the program was limited to such an extent that concrete results are not possible of attainment under the provisions of existing legislation; and

"Whereas the Congress now finds it is in the national interest to demonstrate, with the least possible delay, in actual production tests the several optimum aspects of the construction, operation, and maintenance of sea water conversion and brackish water treatment plants * * *."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958b, 1958d, 1958e, 1958f, 1958g of this title.

§ 1958b. Same; contracts for construction, operation and maintenance; operation, maintenance and engineering records; access by public to records and plants.

The Secretary of the Interior shall enter into a contract or contracts for the construction of the demonstration plants referred to in section 1958a of this title, and the Secretary shall enter into a separate contract or contracts for the operation and maintenance of such plants. Any such operation and maintenance contract shall provide for the compilation by the contractor of complete records with respect to the operation, maintenance, and engineering of the plant or plants specified in the contract. The records so compiled shall be made available to the public by the Secretary at periodic and reasonable intervals with a view to demonstrating the most feasible existing processes for desalting sea water and treating brackish water. Access by the public to the demonstration plants herein provided for shall be assured during all phases of construction and operation subject to such reasonable restrictions as to time and place as the Secretary of the Interior may require or approve. (Pub. L. 85–883, § 2, Sept. 2, 1958, 72 Stat. 1707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958a, 1958d, 1958e, 1958f, 1958g of this title.

§ 1958c. Same; acceptance of assistance from State or public agencies; contracts for assistance; availability of contributed funds; return of unexpended funds.

The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies, surveys, location, construction, operation, or other work relating to saline or brackish water conversion problems and facilities for such conversion, and to enter into contracts with respect to such assistance, which contracts shall detail the purposes for which the assistance is contributed. Any funds so contributed shall be available for expenditure by the Secretary in like manner as if they had been specifically appropriated for purposes for which they are contributed, and any funds not expended for these purposes shall be returned to the State or public agency from which they were received. (Pub. L. 85–883, § 3, Sept. 2, 1958, 72 Stat. 1707.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958a, 1958d, 1958e, 1958f, 1958g of this title.

§ 1958d. Same; termination of authority; disposal of plants; return of share of proceeds to contributors.

The authority of the Secretary of the Interior under sections 1958a to 1958g of this title to construct, operate, and maintain demonstration plants shall terminate upon the expiration of twelve years after September 2, 1958. Upon the expiration of a period deemed adequate for demonstration purposes for each plant, but not to exceed such twelve-year period, the Secretary shall proceed as promptly as practicable to dispose of any plants so constructed by sale to the highest bidder, or as may otherwise be directed by Act of Congress. Upon such sale, there shall be returned to any State or public agency which has contributed financial assistance under section 1958c of this title a proper share of the net proceeds of the sale. (Pub. L. 85–883, § 4, Sept. 2, 1958, 72 Stat. 1707; Pub. L. 87–295, § 2, Sept. 22, 1961, 75 Stat. 630.)

AMENDMENTS

1961—Pub. L. 87–295 extended the termination of authority date to twelve years and substituted "expiration of a period deemed adequate for demonstration purposes for each plant, but not to exceed such twelve-year period" for "expiration of such seven-year period."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958a, 1958e, 1958f, 1958g of this title.

§ 1958e. Same; powers of Secretary; administration.

The powers conferred on the Secretary of the Interior by sections 1958a to 1958g of this title shall be in addition to and not in derogation of the authority conferred on the Secretary by sections 1951 to 1958 of this title. The provisions of such sections 1951 to 1958 of this title, except as otherwise provided in sections 1958a to 1958g of this title, shall be applicable in the administration of sections 1958a to 1958g of this title. (Pub. L. 85–883, § 5, Sept. 2, 1958, 72 Stat. 1708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958a, 1958d, 1958f, 1958g of this title.

§ 1958f. Same; contracts for construction, materials, supplies and services; periods; liability of United States; availability of unobligated appropriations for administrative and technical services.

When appropriations have been made for the construction or operation and maintenance of any demonstration plant under sections 1958a to 1958g of this title, the Secretary may, in connection with such construction or operation and maintenance, enter into contracts for construction, for materials and supplies, and for miscellaneous services, which contracts may cover such periods of time as he shall consider necessary but under which the liability of the United States shall be contingent upon appropriations being available therefor. Unobligated appropriations heretofore made to carry out sections 1951 to 1958 of this title shall be available for administrative and technical services, including travel expenses and the procurement of the services of experts, consultants, and organizations thereof in accordance with section 15 of the Act of August 2, 1946, in connection with carrying out the provisions of sections 1958a to 1958g of this title. (Pub. L. 85–883, § 6, Sept. 2, 1958, 72 Stat. 1708.)

REFERENCES IN TEXT

Section 15 of the Act of August 2, 1946, referred to in the text, was repealed in the general revision of Title 5, and the provisions are now covered by section 3109 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958a, 1958d, 1958e, 1958g of this title.

§ 1958g. Same; authorization of appropriations.

There are authorized to be appropriated such sums, not in excess of $10,000,000, as may be necessary to provide for the construction of the demonstration plants referred to in sections 1958a to 1958g

of this title, together with such additional sums as may be necessary for the operation and maintenance of such plants, and the administration of the program authorized by sections 1958a to 1958g of this title. (Pub. L. 85–883, § 7, Sept. 2, 1958, 72 Stat. 1708.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1952, 1958a, 1958d, 1958e, 1958f of this title.

Chapter 19A.—WATER RESOURCES RESEARCH PROGRAM

GENERAL PROVISIONS

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1961. Declaration of purpose.

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1961c–4. Cataloging center.
1961c–5. Interagency coordination of water resources research.
1961c–6. "State" defined.
1961c–7. Annual report by the Secretary of the Interior to the President and the Congress.

GENERAL PROVISIONS

§ 1961. Declaration of purpose.

In order to assist in assuring the Nation at all times of a supply of water sufficient in quantity and quality to meet the requirements of its expanding population, it is the purpose of the Congress, by this chapter, to stimulate, sponsor, provide for, and supplement present programs for the conduct of research, investigations, experiments, and the training of scientists in the fields of water and of resources which affect water. (Pub. L. 88–379, § 1(b), July 17, 1964, 78 Stat. 329.)

SHORT TITLE

Section 1(a) of Pub. L. 88–379 provided that: "This Act [enacting this chapter] may be cited as the 'Water Resources Research Act of 1964'."

SUBCHAPTER I.—STATE WATER RESOURCES RESEARCH INSTITUTES

§ 1961a. Water resources research institutes.

(a) Appropriations; establishment; number; designation of institution; interstate or regional institutes; participation of educational institutions in institute work.

There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums adequate to provide $75,000 to each of the several States in the first year, $87,500 in each of the second and third years, and $100,000 each year thereafter to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in that State, which college or university shall be a college or university established in accordance with sections 301 to 305, 307 and 308 of Title 7 or some other institution designated by Act of the legislature of the State concerned: *Provided*, That (1) if there is more than one such college or university in a State, established in accordance with sections 301 to 305, 307 and 308 of Title 7, funds under this chapter shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this chapter; (2) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; and (3) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute.

(b) Duties of institutes; scope of activities.

It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to water resources and to provide for the training of scientists through such research, investigations, and experiments. Such research, investigations, experiments, and training may include, without being limited to, aspects of the hydrologic cycle; supply and demand for water; conservation and best use of available

supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems, having due regard to the varying conditions and needs of the respective States, to water research projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations, and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research. (Pub. L. 88-379, title I, § 100, July 17, 1964, 78 Stat. 329.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a-2, 1961a-4, 1961c-7 of this title.

§ 1961a-1. Specific water resources research projects, including regional projects.

(a) Appropriations; matching funds.

There is further authorized to be appropriated to the Secretary of the Interior for the fiscal year 1965 and each subsequent year thereafter sums not in excess of the following: 1965, $1,000,000; 1966, and each subsequent year thereafter sums not in excess of the following: 1965, $1,000,000; 1966, $2,000,000; 1967, $3,000,000; 1968, $4,000,000; and 1969 and each of the succeeding years, $5,000,000. Such moneys when appropriated, shall be available to match, on a dollar-for-dollar basis, funds made available to institutes by States or other non-Federal sources to meet the necessary expenses of specific water resources research projects which could not otherwise be undertaken, including the expenses of planning and coordinating regional water resources research projects by two or more institutes.

(b) Application for grants; contents; approval of projects; basis of grants.

Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water economy of the Nation, the region, and the State concerned, its relation to other known research projects theretofore pursued or currently being pursued, and the extent to which it will provide opportunity for the training of water resources scientists. No grant shall be made under said subsection (a) except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists. (Pub. L. 88-379, title I, § 101, July 17, 1964, 78 Stat. 330.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a-2, 1961c-7 of this title.

§ 1961a-2. Payments to institutes; time; amount; vouchers; accounting officers; reports to Secretary of Interior; State replacement of diminished, lost, or misapplied funds.

Sums available to the States under the terms of sections 1961a and 1961a-1 of this title shall be paid to their designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this chapter and shall make an annual report to the Secretary on or before the 1st day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this chapter during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this chapter shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State. (Pub. L. 88-379, title I, § 102, July 17, 1964, 78 Stat. 330.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961a-4, 1961c-7 of this title.

§ 1961a-3. Funds for printing and publishing results of research, etc., administrative planning and direction, and planning, coordinating, and conducting cooperative research.

Moneys appropriated pursuant to this chapter, in addition to being available for expenses for research, investigations, experiments, and training conducted under authority of this chapter, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this chapter in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and moneys appropriated pursuant to this chapter shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research. (Pub. L. 88-379, title I, § 103, July 17, 1964, 78 Stat. 330.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961c-7 of this title.

§ 1961a-4. Powers and duties of Secretary of Interior; administration; rules and regulations; other responsibilities.

The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this chapter and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this chapter, participate in coordinating research initiated under this chapter by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other

research organizations, the United States Department of the Interior, and other Federal establishments.

On or before the 1st day of July in each year after July 17, 1964, the Secretary shall ascertain whether the requirements of section 1961a-2 of this title have been met as to each State, whether it is entitled to receive its share of the annual appropriations for water resources research under section 1961a of this title, and the amount which it is entitled to receive. (Pub. L. 88-379, title I, § 104, July 17, 1964, 78 Stat. 331; Pub. L. 89-404, § 2, Apr. 19, 1966, 80 Stat. 130.)

AMENDMENTS

1966—Pub. L. 89-404 struck out provisions requiring the Secretary to make an annual report to Congress concerning the work of the institutes in all states, including receipts, expenditures, and any withholding of available appropriations. See section 1961c-7 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961c-7 of this title.

§ 1961a-5. Legal relationship of educational institution and State government; Federal control or direction of education.

Nothing in this chapter shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this chapter shall in any way be construed to authorize Federal control or direction of education at any college or university. (Pub. L. 88-379, title I, § 105, July 17, 1964, 78 Stat. 331.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961c-7 of this title.

SUBCHAPTER II.—ADDITIONAL WATER RESOURCES RESEARCH PROGRAMS

§ 1961b. Research into water problems related to the mission of the Department of the Interior.

(a) Authorization of appropriations.

There are authorized to be appropriated to the Secretary of the Interior $5,000,000 for the fiscal year 1967, $6,000,000 for the fiscal year 1968, $7,000,000 for the fiscal year 1969, $8,000,000 for the fiscal year 1970, $9,000,000 for the fiscal year 1971, and $10,000,000 for each of the fiscal years 1972-1976, inclusive, from which appropriations the Secretary may make grants to and finance contracts and matching or other arrangements with educational institutions, private foundations or other institutions, with private firms and individuals whose training, experience, and qualifications are, in his judgment, adequate for the conduct of water research projects, and with local, State, and Federal Government agencies, to undertake research into any aspects of water problems related to the mission of the Department of the Interior which he may deem desirable and which are not otherwise being studied.

(b) Submission to Congress of grant, contract, or arrangement.

No grant shall be made, no contract shall be executed, and no matching or other arrangement shall be entered into under subsection (a) of this section prior to sixty calendar days from the date the same is submitted to the President of the Senate and the Speaker of the House of Representatives and said sixty calendar days shall not include days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. (Pub. L. 88-379, title II, § 200, July 17, 1964, 78 Stat. 331; Pub. L. 89-404, § 1, Apr. 19, 1966, 80 Stat. 129.)

AMENDMENTS

1966—Pub. L. 89-404 divided the section into subsecs. (a) and (b), increased the authorization for appropriations from $1,000,000 for each year for 10 years beginning in fiscal year 1965 to $5,000,000 for fiscal year 1967, $6,000,000 for fiscal year 1968, $7,000,000 for fiscal year 1969, $8,000,000 for fiscal year 1970, $9,000,000 for fiscal year 1971, and $10,000,000 for each of the fiscal years 1972-1976 inclusive, and added a requirement that no contract or other arrangement be entered into until 60 calendar days after it had been submitted to the Congress and during which Congress is in session.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961c-7 of this title.

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

§ 1961c. Cooperation of Federal, State, and private agencies; availability of information.

The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with water problems, of State and local governments, and of private institutions and individuals, to assure that the programs authorized in this chapter will supplement and not duplicate established water research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive, nationwide program of water and related resources research. He shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this chapter, in addition to any direct publication of information by the institutes themselves. (Pub. L. 88-379, title III, § 300, July 17, 1964, 78 Stat. 332.)

§ 1961c-1. Authority of Secretary of Interior over water resources research of other Federal agencies; existing authorities and responsibilities of Federal agencies unaffected.

Nothing in this chapter is intended to give or shall be construed as giving the Secretary of the Interior any authority or surveillance over water resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its areas of responsibility and concern with water resources. (Pub. L. 88-379, title III, § 301, July 17, 1964, 78 Stat. 332.)

§ 1961c-2. Advance payments of initial expenses.

Contracts or other arrangements for water resources work authorized under this chapter with an institute, educational institution, or non-profit organization may be undertaken without regard to the provisions of section 529 of Title 31 when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facil-

itate such work. (Pub. L. 88-379, title III, § 302, July 17, 1964, 78 Stat. 332.)

§ 1961c-3. Availability to public of resulting information and developments a condition for expenditure of funds for scientific or technological research or development activity; background patent owners' rights.

No part of any appropriated funds may be expended pursuant to authorization given by this chapter for any scientific or technological research or development activity unless such expenditure is conditioned upon provisions determined by the Secretary of the Interior, with the approval of the Attorney General, to be effective to insure that all information, uses, products, processes, patents, and other developments resulting from that activity will (with such exceptions and limitations as the Secretary may determine, after consultation with the Secretary of Defense, to be necessary in the interest of the national defense) be made freely and fully available to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activity of any rights which that owner may have under that patent. (Pub. L. 88-379, title III, § 303, July 17, 1964, 78 Stat. 332.)

§ 1961c-4. Cataloging center.

There shall be established, in such agency and location as the President determines to be desirable, a center for cataloging current and projected scientific research in all fields of water resources. Each Federal agency doing water resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for general use a catalog of water resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as voluntarily may make such information available. (Pub. L. 88-379, title III, § 304, July 17, 1964, 78 Stat. 332.)

§ 1961c-5. Interagency coordination of water resources research.

The President shall, by such means as he deems appropriate, clarify agency responsibilities for Federal water resources research and provide for interagency coordination of such research, including the research authorized by this chapter. Such coordination shall include (a) continuing review of the adequacy of the Government-wide program in water resources research, (b) identification and elimination of duplication and overlaps between two or more agency programs, (c) identification of technical needs in various water resources research categories, (d) recommendations with respect to allocation of technical effort among the Federal agencies, (e) review of technical manpower needs and findings concerning the technical manpower base of the program, (f) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (g) actions to facilitate interagency communication at management levels. (Pub. L. 88-379, title III, § 305, July 17, 1964, 78 Stat. 332.)

§ 1961c-6. "State" defined.

As used in this chapter, the term "State" includes the Commonwealth of Puerto Rico. (Pub. L. 88-379, title III, § 306, July 17, 1964, 78 Stat. 333.)

1961c-7. Annual report by the Secretary of Interior to the President and Congress.

The Secretary shall make a report to the President and Congress on or before March 1 of each year showing the disposition during the preceding calendar year of moneys appropriated to carry out this chapter, the results expected to be accomplished through projects financed during that year under sections 1961a-1 and 1961b of this title, and the conclusions reached in or other results achieved by those projects which were completed during that year. The report shall also include an account of the work of all institutes financed under section 1961a of this title and indicate whether any portion of an allotment to any State was withheld and, if so, the reasons therefor. (Pub. L. 88-379, title III, § 307, as added Pub. L. 89-404, § 2, Apr. 19, 1966, 80 Stat. 130.)

Chapter 19B.—WATER RESOURCES PLANNING

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1962d–14. Same; appropriations.

§ 1962. Congressional statement of policy.

In order to meet the rapidly expanding demands for water throughout the Nation, it is hereby declared to be the policy of the Congress to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned. (Pub. L. 89–80, § 2, July 22, 1965, 79 Stat. 244.)

SHORT TITLE

Section 1 of Pub. L. 89–80 provided that Pub. L. 89–80, which enacted this chapter, may be cited as the "Water Resources Planning Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962b–3 of this title.

§ 1962–1. Effect on existing laws.

Nothing in this chapter shall be construed—

(a) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this chapter with respect to the preparation and review of compre-

hensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this chapter; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;

(d) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission.

(Pub. L. 89–80, § 3, July 22, 1965, 79 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962b of this title.

§ 1962–2. Congressional statement of objectives.

It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in federally financed water resource projects, and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives. (Pub. L. 91–611, title II, § 209, Dec. 31, 1970, 84 Stat. 1829.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Water Resources Planning Act which comprises this chapter.

SUBCHAPTER I.—WATER RESOURCES COUNCIL

§ 1962a. Establishment; composition; other Federal agency participation; designation of Chairman.

There is hereby established a Water Resources Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Chairman of the Federal Power Commission. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President. (Pub. L. 89–80, title I, § 101, July 22, 1965, 79 Stat. 245.)

NATIONAL WATER COMMISSION

Pub. L. 90–515, Sept. 26, 1968, 82 Stat. 868, provided:

"[SEC. 1. SHORT TITLE.] This Act may be cited as the 'National Water Commission Act.'

"SEC. 2. [MEMBERSHIP; COMPENSATION; EXECUTIVE DIRECTOR.] (a) There is established the National Water Commission (hereinafter referred to as the 'Commission').

"(b) The Commission shall be composed of seven members who shall be appointed by the President and serve at his pleasure. No member of the Commission shall, during his period of service on the Commission, hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

"(c) The President shall designate a Chairman of the Commission (hereinafter referred to as the 'Chairman') from among its members.

"(d) Members of the Commission may each be compensated at the rate of $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C., sec. 5703, for persons in the Government service employed intermittently.

"(e) The Commission shall have an Executive Director, who shall be appointed by the Chairman with the approval of the Commission and shall be compensated at the rate determined by the U.S. Civil Service Commissioners. The Executive Director shall have such duties and responsibilities as the Chairman may assign.

"SEC. 3. [DUTIES; REPORTS; TERMINATION.] (a) The Commission shall (1) review present anticipated national water resource problems, making such projections of water requirements as may be necessary and identifying alternative ways of meeting these requirements—giving consideration, among other things, to conservation and more efficient use of existing supplies, increased usability by reduction of pollution, innovations to encourage the highest economic use of water, interbasin transfers, and technological advances including, but not limited to, desalting, weather modification, and waste water purification and reuse; (2) consider economic and social consequences of water resource development, including, for example, the impact of water resource development on regional economic growth, on institutional arrangements, and on esthetic values affecting the quality of life of the American people; and (3) advise on such specific water resource matters as may be referred to it by the President and the Water Resources Council.

"(b) The Commission shall consult with the Water Resources Council regarding its studies and shall furnish its proposed reports and recommendations to the Council for review and comment. The Commission shall submit simultaneously to the President and to the United States Congress such interim and final reports as it deems appropriate, and the Council shall submit simultaneously to the President and to the United States Congress its views on the Commission's reports. The President shall transmit the Commission's final report to the Congress together with such comments and recommendations for legislation as he deems appropriate.

"(c) The Commission shall terminate not later than five years from the effective date of this Act [September 26, 1968].

"SEC. 4. [POWERS OF THE COMMISSION.] (a) The Commission may (1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) without regard to the civil service laws and regulations and without regard to 5 U.S.C., ch. 51, employ and fix the compensation of such personnel as may be necessary to carry out the functions of the Commission; (5) procure services as authorized by 5 U.S.C., sec. 3109, at rates not to exceed $100 per diem for individuals; (6) purchase, hire, operate, and maintain passenger motor vehicles; (7) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies and river basin commissions created pursuant to title II of the Water Resources Planning Act [section 1962b of this title] to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and (8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

"(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

"SEC. 5. [POWERS AND DUTIES OF CHAIRMAN.] (a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in section 4(a)(2) through section 4(a)(8).

"(b) The Chairman may make such provision as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Executive Director or other personnel of the Commission.

"SEC. 6. [OTHER FEDERAL AGENCIES.] (a) The Commission may, to the extent practicable, utilize the services of the Federal water resource agencies.

"(b) Upon request of the Commission, the head of any Federal department or agency or river basin commission created pursuant to title II of the Water Resources Planning Act [section 1962b of this title] is authorized (1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 4(a)(7) of this Act, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with this Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

"(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services: *Provided,* That the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C., sec. 5514) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission: *And provided further,* That the Commission shall not be required to prescribe such regulations.

"SEC. 7. [AUTHORIZATION OF APPROPRIATIONS.] There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1656.

§ 1962a-1. Powers and duties.

The Council shall—

(a) maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and

(b) maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs.

(Pub. L. 89-80, title I, § 102, July 22, 1965, 79 Stat. 245.)

§ 1962a-2. Establishment of principles, standards, and procedures for preparation of regional or river basin plans and Federal projects; revision of river basin planning commission plans.

The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission. (Pub. L. 89-80, title I, § 103, July 22, 1965, 79 Stat. 245.)

ECONOMIC EVALUATION OF WATER RESOURCE PROJECTS; INCLUSION OF SECRETARY OF TRANSPORTATION ON COUNCIL

Development of standards and criteria for economic evaluation of water resource projects by Council and inclusion of Secretary of Transportation on the Council during consideration of matters concerning the navigation features of water resource projects, see section 1656 (a) of Title 49, Transportation.

§ 1962a-3. Review of river basin commission plans; report to President and Congress.

Upon receipt of a plan or revision thereof from any river basin commission under the provisions of section 1962b—3(3) of this title, the Council shall review the plan or revision with special regard to—

(1) the efficacy of such plan or revision in achieving optimum use of the water and related land resources in the area involved;

(2) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and

(3) the contributions which such plan or revision will make in obtaining the Nation's economic and social goals.

Based on such review the Council shall—

(a) formulate such recommendations as it deems desirable in the national interest; and

(b) transmit its recommendations, together with the plan or revision of the river basin commission and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or United States section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects.

(Pub. L. 89-80, title I, § 104, July 22, 1965, 79 Stat. 245.)

§ 1962a-4. Administrative provisions.

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants; motor vehicles; necessary expenses; other powers.

For the purpose of carrying out the provisions of this chapter, the Council may: (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its

proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5; (5) procure services as authorized by section 15 of the Act of August 2, 1946, at rates not to exceed $100 per diem for individuals; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform it functions under this chapter.

(b) Oaths.

Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

(c) Records; public inspection.

To the extent permitted by law, all appropriate records and papers of the Council may be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies.

Upon request of the Council, the head of any Federal department or agency is authorized (1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Council on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds.

The Council shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditures of funds. (Pub. L. 89-80, title I, § 105, July 22, 1965, 79 Stat. 246.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(4) are classified generally to Title 5, Government Organization and Employees.

Section 15 of the Act of August 2, 1946, referred to in subsec. (a)(5), was repealed in the general revision of Title 5, and the provisions are now covered by section 3109 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-2 of this title.

SUBCHAPTER II.—RIVER BASIN COMMISSIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1962d of this title.

§ 1962b. Creation of commissions; powers and duties.

(a) The President is authorized to declare the establishment of a river basin water and related land resources commission upon request therefor by the Council, or request addressed to the Council by a State within which all or part of the basin or basins concerned are located if the request by the Council or by a State (1) defines the area, river basin, or group of related river basins for which a commission is requested, (2) is made in writing by the Governor or in such manner as State law may provide, or by the Council, and (3) is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located and, in the event the Upper Colorado River Basin is involved, by at least three of the four States of Colorado, New Mexico, Utah, and Wyoming or, in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington. Such concurrences shall be in writing.

(b) Each such commission for an area, river basin, or group of river basins shall, to the extent consistent with section 1962-1 of this title—

(1) serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

(2) prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources: *Provided,* That the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in the preparation of the plan described in clause (2) of this subsection.

(Pub. L. 89-80, title II, § 201, July 22, 1965, 79 Stat. 246.)

EX. ORD NO. 11331. PACIFIC NORTHWEST RIVER BASINS COMMISSION

Ex. Ord. No. 11331, Mar. 6, 1967, 32 F.R. 3875, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C. 1962 *et seq.*) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addressed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located, and in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington; and

WHEREAS the Council, by resolution adopted November 14, 1966, concurred in the requests of the Governors of the States of Oregon, Washington, Idaho, Montana, and Wyoming; and did itself request that the President declare the establishment of the Pacific Northwest River

Basins Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the requests of the Governors of the States of Oregon, Washington, Idaho, Montana, and Wyoming, and the resolution of the Council of November 14, 1966, satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS the Governors of the States of California, Nevada, and Utah have been consulted in regard to small headwater areas in these respective States that contribute small quantities of water to or use small quantities of water from the area of jurisdiction of the Commission; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Pacific Northwest River Basins Commission.* It is hereby declared that the Pacific Northwest River Basins Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Pacific Northwest River Basins Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to the entire area of the State of Washington; the entire area of the State of Oregon, except that drained by the Klamath River system, the Smith River system, and that area draining into Goose Lake; and those portions of the States of Idaho, Montana, and Wyoming lying within the Columbia River drainage, in accordance with the requests of the Governors of Oregon, Washington, Idaho, Montana, and Wyoming, and in accordance with the resolution of the Council.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b–1 of this title], the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Oregon, Washington, Idaho, Montana, and Wyoming,

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2, and

(5) the Chairman of the United States Entity for the Columbia River Treaty.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *Consultation with adjoining States.* The Commission is expected to provide for procedures for consultation with the States of California, Nevada, and Utah on any matter which might affect the water and related land resources of the small headwater drainages in each of these States that drain into the area of jurisdiction of the Commission, and to give notice to these States of meetings of the Commission.

SEC. 6. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to the areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 7. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

EX. ORD. NO. 11345. GREAT LAKES BASIN COMMISSION

Ex. Ord. No. 11345, Apr. 20, 1967, 32 F.R. 6329, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C. 1962 *et seq.*) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addresed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located; and

WHEREAS the Council, by resolution adopted March 7, 1966, concurred in the requests of the Governors of the States of Indiana, Michigan, Minnesota, Ohio, and Wisconsin, which have been concurred in by the Governors of Illinois, New York, and Pennsylvania; and did itself request that the President declared the establishment of the Great Lakes Basin Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the requests of the Governors of the States of Indiana, Michigan, Minnesota, Ohio, and Wisconsin, and the resolution of the Council of March 7, 1966, together with written concurrences by the Governors of the States of Illinois, New York, and Pennsylvania, satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Great Lakes Basin Commission.* It is hereby declared that the Great Lakes Basin Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of Commission.* It is hereby determined that the jurisdiction of the Great Lakes Basin Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to those portions of the eight Great Lakes States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin that are drained by the St. Lawrence River system, including the Great Lakes, their tributaries, and tributaries to the St. Lawrence River which reach that river within the United States, in accordance with the requests of the Governors of Indiana, Michigan, Minnesota, Ohio, and Wisconsin, concurred in by the Governors of Illinois, New York, and Pennsylvania, and in accordance with the resolution of the Council.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b–1 of this title], the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Transportation, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of

such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *International coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to the areas of interest or jurisdiction of the International Joint Commission, United States and Canada, and the Great Lakes Fishery Commission. The Council shall consult on these matters as appropriate with the Department of State and with the International Joint Commission and the Great Lakes Fishery Commission through their United States Sections for the purpose of enhancing international coordination.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

EX. ORD. NO. 11359. ESTABLISHMENT OF SOURIS-RED-RAINY RIVER BASINS COMMISSION

Ex. Ord. No. 11359, June 20, 1967, 32 F.R. 8851, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C. 1962 *et seq.*) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addressed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located; and

WHEREAS the Council, by resolution adopted December 28, 1966, concurred in the requests of the Governors of the States of Minnesota and North Dakota to which the Governor of South Dakota has given his concurrence, and did itself request that the President declare the establishment of the Souris-Red-Rainy River Basins Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the requests of the Governors of the States of Minnesota and North Dakota and the resolution of the Council of December 28, 1966, together with written concurrence by the Governor of South Dakota, satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS the Governors of the States of Minnesota and North Dakota have agreed to, and the Governor of South Dakota has concurred in, conditions relating to consolidation and termination of this Commission; and

WHEREAS the Governor of the State of Montana has been been consulted in regard to the small headwater area of the Souris River Basin in Montana that contributes a small quantity of water to the area of jurisdiction of the Commission; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *Souris-Red-Rainy River Basins Commission.* It is hereby declared that the Souris-Red-Rainy River Basins Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Souris-Red-Rainy River Basins Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to those portions of the States of Minnesota, North Dakota, and South Dakota that are drained by the Souris-Red-Rainy Rivers system, in accordance with the requests of the Governors of Minnesota and North Dakota, concurred in by the Governor of South Dakota, and in accordance with the resolution of the Council.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with section 202 of the Act [section 1962b–1 of this title], the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, and the Federal Power Commission, such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Minnesota, North Dakota, and South Dakota, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *Consultation with adjoining States.* The Commission is expected to provide for procedures for consultation with the State of Montana on any matter which might affect the water and related land resources of the small headwater drainage of the Souris River Basin in Montana, and to give notice to Montana of meetings of the Commission.

SEC. 6. *International coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to the areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 7. *Consolidation and termination.* Consideration shall be given to consolidating the Commission with a Missouri River Basin Commission, if and when such a commission is established. If a consolidation does not occur, the Commission shall terminate within six months after the submission of the comprehensive river basin plan in accordance with section 204(3) of the Act [section 1962b–3(3) of this title], or on June 30, 1972, whichever is earlier; unless, upon recommendation of both the Council and not less than one-half the number of member States, this order is extended.

SEC. 8. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

EX. ORD. NO. 11371. ESTABLISHMENT OF NEW ENGLAND RIVER BASINS COMMISSION

Ex. Ord. No. 11371, Sept. 6, 1967, 32 F.R. 12903, as amended by Ex. Ord. No. 11528, Apr. 24, 1970, 35 F.R. 6695, provided:

WHEREAS the Water Resources Planning Act (hereinafter referred to as the Act, 79 Stat. 244, 42 U.S.C. 1962 et seq.) [this chapter] authorizes the President to declare the establishment of a river basin water and related land resources commission when a request for such a commission is addressed in writing to the Water Resources Council (hereinafter referred to as the Council) by the Governor of a State within which all or part of the basin or basins concerned are located and when such a request is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located; and

WHEREAS the Council, by resolution adopted October 14, 1965, occurred in the request of the Governor of the State of Maine, as Chairman of the New England Governors' Conference, and did itself request that the President declare the establishment of the New England River Basins Commission under the provisions of section 201 of the Act [this section]; and

WHEREAS the request of the Governor of the State of Maine and the resolution of the Council of October 14, 1965, together with written concurrences by the Governors of the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, and New York,

satisfy the formal requirements of section 201 of the Act [this section]; and

WHEREAS it appears that it would be in the public interest and in keeping with the intent of Congress to declare the establishment of such a Commission:

NOW, THEREFORE, by virtue of the authority vested in me by section 201 of the Act [this section], and as President of the United States, it is ordered as follows:

SECTION 1. *New England River Basins Commission.* It is hereby declared that the New England River Basins Commission is established under the provisions of Title II of the Act [this subchapter].

SEC. 2. *Jurisdiction of Commission.* (a) It is hereby determined that the jurisdiction of the New England River Basins Commission referred to in section 1 of this order (hereinafter referred to as the Commission) shall extend to an area composed as follows:

(1) The State of Maine,

(2) The State of New Hampshire,

(3) The State of Vermont, excluding that portion thereof which is within the drainage area of the Hudson River and excluding also that portion thereof which is within the drainage area of Lake Champlain.

(4) The State of Massachusetts, excluding that portion thereof which is within the drainage area of the Hudson River,

(5) The State of Connecticut,

(6) The State of Rhode Island,

(7) (i) That portion of the State of New York which is within the drainage area of the Housatonic River, and (ii) that portion of Long Island (excluding New York City) in the State of New York which is within the drainage area of Long Island Sound, and

(8) Long Island Sound except the portion thereof which lies west of a line extended from the Connecticut-New York boundary at the northern shore of the Sound to the New York City-Nassau County boundary at the southern shore of the Sound.

(b) The determination set forth in subsection (a) of this section is made in accordance with the request of the Commission, and is concurred in by the Water Resources Council and by the Governors of the States within the jurisdiction of the Commission.

SEC. 3. *Membership of Commission.* It is hereby determined, in accordance with section 202 of the Act [section 1962b-1 of this title,] that the Commission shall consist of the following:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture, Department of the Army, Department of Commerce, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of Transportation, Atomic Energy Commission, and Federal Power Commission, each such member to be appointed by the head of each department or independent agency he represents,

(3) one member from each of the following States: Maine, New Hampsire, Vermont, Massachusetts, Connecticut, Rhode Island, and New York, and

(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in section 2.

SEC. 4. *Functions to be performed.* The Commission and its Chairman, members, and employees are hereby authorized to perform and exercise, with respect to the jurisdiction specified in section 2 of this order, the functions, powers, and duties of such a Commission and of such Chairman, members, and employees, respectively, as set out in Title II of the Act [this subchapter].

SEC. 5. *International coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to the areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Council.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962a-3, 1962b-3 of this title.

§ 1962b-1. Membership of commissions; appointment of chairman.

Each river basin commission shall be composed of members appointed as follows:

(a) A chairman appointed by the President who shall also serve as chairman and coordinating officer of the Federal members of the commission and who shall represent the Federal Government in Federal-State relations on the commission and who shall not, during the period of his service on the commission, hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government;

(b) One member from each Federal department or independent agency determined by the President to have a substantial interest in the work to be undertaken by the commission, such member to be appointed by the head of such department or independent agency and to serve as the representative of such department or independent agency;

(c) One member from each State which lies wholly or partially within the area, river basin, or group of river basins for which the commission is established, and the appointment of each such member shall be made in accordance with the laws of the State which he represents. In the absence of governing provisions of State law, such State members shall be appointed and serve at the pleasure of the Governor;

(d) One member appointed by any interstate agency created by an interstate compact to which the consent of Congress has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is created;

(e) When deemed appropriate by the President, one member, who shall be appointed by the President, from the United States section of any international commission created by a treaty to which the consent of the Senate has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is established. (Pub. L. 89-80, title II, § 202, July 22, 1965, 79 Stat. 247.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962a-3, 1962b-5 of this title.

§ 1962b-2. Organization of commissions.

(a) Commencement of functions; transfer of property, assets, and records upon termination of commission; availability of studies, data, and other materials to participants.

Each river basin commission shall organize for the performance of its functions within ninety days after the President shall have declared the establishment of such commission, subject to the availability of funds for carrying on its work. A commission shall terminate upon decision of the Council or agreement of a majority of the States composing the commission. Upon such termination, all property, assets, and records of the commission shall thereafter be

turned over to such agencies of the United States and the participating States as shall be appropriate in the circumstances: *Provided,* That studies, data, and other materials useful in water and related land resources planning to any of the participants shall be kept freely available to all such participants.

(b) Vice chairman; State election; State representation.

State members of each commission shall elect a vice chairman, who shall serve also as chairman and coordinating officer of the State members of the commission and who shall represent the State governments in Federal-State relations on the commission.

(c) Vacancies; alternates for chairman and vice chairman.

Vacancies in a commission shall not affect its powers but shall be filled in the same manner in which the original appointments were made: *Provided,* That the chairman and vice chairman may designate alternates to act for them during temporary absences.

(d) Consensus of members on issues; opportunities for individual views; record of position of chairman and vice chairman; final authority on procedural questions.

In the work of the commission every reasonable endeavor shall be made to arrive at a consensus of all members on all issues; but failing this, full opportunity shall be afforded each member for the presentation and report of individual views: *Provided,* That at any time the commission fails to act by reason of absence of consensus, the position of the chairman, acting in behalf of the Federal members, and the vice chairman, acting upon instructions of the State members, shall be set forth in the record: *Provided further,* That the chairman, in consultation with the vice chairman, shall have the final authority, in the absence of an applicable bylaw adopted by the commission or in the absence of a consensus, to fix the times and places for meetings, to set deadlines for the submission of annual and other reports, to establish subcommittees, and to decide such other procedural questions as may be necessary for the commission to perform its functions. (Pub. L. 89-80, title II, § 203, July 22, 1965, 79 Stat. 248.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962a-3 of this title.

§ 1962b-3. Duties of commissions.

Each river basin commission shall—

(1) engage in such activities and make such studies and investigations as are necessary and desirable in carrying out the policy set forth in section 1962 of this title and in accomplishing the purposes set forth in section 1962b(b) of this title;

(2) submit to the Council and the Governor of each participating State a report on its work at least once each year. Such report shall be transmitted through the President to the Congress. After such transmission, copies of any such report shall be sent to the heads of such Federal, State, interstate, and international agencies as the President or the Governors of the participating States may direct;

(3) submit to the Council for transmission to the President and by him to the Congress, and the Governors and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for water and related land resources development in the area, river basin, or group of river basins for which such commission was established. Before the commission submits such a plan or major portion thereof or revision thereof to the Council, it shall transmit the proposed plan or revision to the head of each Federal department or agency, the Governor of each State, and each interstate agency, from which a member of the commission has been appointed, and to the head of the United States section of any international commission if the plan, portion or revision deals with a boundary water or a river crossing a boundary, or any tributary flowing into such boundary water or river, over which the international commission has jurisdiction or for which it has responsibility. Each such department and agency head, Governor, interstate agency, and United States section of an international commission shall have ninety days from the date of the receipt of the proposed plan, portion, or revision to report its views, comments, and recommendations to the commission. The commission may modify the plan, portion, or revision after considering the reports so submitted. The views, comments, and recommendations submitted by each Federal department or agency head, Governor, interstate agency, and United States section of an international commission shall be transmitted to the Council with the plan, portion, or revision; and

(4) submit to the Council at the time of submitting such plan, any recommendations it may have for continuing the functions of the commission and for implementing the plan, including means of keeping the plan up to date.

(Pub. L. 89-80, title II, § 204, July 22, 1965, 79 Stat. 248.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962a-3 of this title.

§ 1962b-4. Administrative provisions.

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel, consultants, and professional service contracts; personnel from other agencies; retirement and employee benefit system for personnel without coverage; motor vehicles; necessary expenses; other powers.

For the purpose of carrying out the provisions of this subchapter, each river basin commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(4) employ and compensate such personnel as it deems advisable, including consultants, at rates not to exceed $100 per diem, and retain and com-

pensate such professional or technical service firms as it deems advisable on a contract basis;

(5) arrange for the services of personnel from any State or the United States, or any subdivision or agency thereof, or any intergovernmental agency;

(6) make arrangements, including contracts, with any participating government, except the United States or the District of Columbia, for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for or continuing in another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(7) purchase, hire, operate, and maintain passenger motor vehicles; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

(b) Oaths.

The chairman of a river basin commission, or any member of such commission designated by the chairman thereof for the purpose, is authorized to administer oaths when it is determined by a majority of the commission that testimony shall be taken or evidence received under oath.

(c) Records; public inspection.

To the extent permitted by law, all appropriate records and papers of each river basin commission shall be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies.

Upon request of the chairman of any river basin commission, or any member or employee of such commission designated by the chairman thereof for the purpose, the head of any Federal department or agency is authorized (1) to furnish to such commission such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such commission on a reimbursable basis such personnel within his administrative jurisidiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds.

The chairman of each river basin commission shall, with the concurrence of the vice chairman, appoint the personnel employed by such commission, and the chairman shall, in accordance with the general policies of such commission with respect to the work to be accomplished by it and the timing thereof, be responsible for (1) the supervision of personnel employed by such commission, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditure of funds available to such commission. (Pub. L. 89-80, title II, § 205, July 22, 1965, 79 Stat. 249.)

§ 1962b-5. Compensation of commission members.

(a) Any member of a river basin commission appointed pursuant to section 1962b-1 (b) and (e) of this title shall receive no additional compensation by virtue of his membership on the commission, but shall continue to receive, from appropriations made for the agency from which he is appointed, the salary of his regular position when engaged in the performance of the duties vested in the commission.

(b) Members of a commission, appointed pursuant to section 1962b-1 (c) and (d) of this title, shall each receive such compensation as may be provided by the States or the interstate agency respectively, which they represent.

(c) The per annum compensation of the chairman of each river basin commission shall be determined by the President, but when employed on a full-time annual basis shall not exceed the maximum scheduled rate for grade GS-18 or when engaged in the performance of the commission's duties on an intermittent basis such compensation shall be not more than $100 per day and shall not exceed $12,000 in any year. (Pub. L. 89-80, title II, § 206, July 22, 1965, 79 Stat. 250.)

REFERENCES IN TEXT

GS-18, referred to in subsec. (c), is grade 18 of the General Schedule. The General Schedule, which sets forth the basic pay schedule, is set out as section 5332 of Title 5, Government Organization and Employees.

§ 1962b-6. Expenses of commissions.

(a) Federal share; apportionment of remainder; annual budget; estimates of proposed Federal appropriations; advances against delayed State appropriations; credit to account in the Treasury.

Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission's expenses shall be otherwise apportioned as the commission may determine. Each commission shall prepare a budget annually and transmit it to the Council and the States. Estimates of proposed appropriations from the Federal Government shall be included in the budget estimates submitted by the Council under the Budgeting and Accounting Act of 1921, as amended, and may include an amount for advance to a commission against State appropriations for which delay is anticipated by reason of later legislative sessions. All sums appropriated to or otherwise received by a commission shall be credited to the commission's account in the Treasury of the United States.

(b) Acceptance, reception, utilization, and disposal of appropriations, donations, and grants.

A commission may accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, and services from any State or the United States or any subdivision or agency thereof, or intergovernmental agency, and may receive, utilize, and dispose of the same.

(c) Accounts of receipts and disbursements; annual audit; inclusion in annual report.

The commission shall keep accurate accounts of all receipts and disbursements. The accounts shall be audited at least annually in accordance with generally accepted auditing standards by independent certified or licensed public accountants, certified or licensed by a regulatory authority of a State, and the

report of the audit shall be included in and become a part of the annual report of the commission.

(d) Inspection of accounts.

The accounts of the commission shall be open at all reasonable times for inspection by representatives of the jurisdictions and agencies which make appropriations, donations, or grants to the commission. (Pub. L. 89-80, title II, § 207, July 22, 1965, 79 Stat. 250.)

REFERENCES IN TEXT

The Budgeting and Accounting Act of 1921, as amended, referred to in subsec. (a), is classified principally to chapter 1 of Title 31, Money and Finance.

SUBCHAPTER III.—FINANCIAL ASSISTANCE TO STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1962d of this title.

§ 1962c. Authorization of appropriations; coordination of related Federal planning assistance programs; utilization of Federal agencies administering programs contributing to water resources planning.

(a) In recognition of the need for increased participation by the States in water and related land resources planning to be effective, there are hereby authorized to be appropriated to the Council for the next fiscal year beginning after July 22, 1965, and for the nine succeeding fiscal years thereafter, $5,000,000 in each such year for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans.

(b) The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this subchapter, and the use of funds available therefor, as may be necessary in order to assure (1) coordination of the program authorized by this subchapter with related Federal planning assistance programs, including the program authorized under section 461 of Title 40 and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this chapter. (Pub. L. 89-80, title III, § 301, July 22, 1965, 79 Stat. 251.)

§ 1962c-1. Allotments to States: basis, population and land area determinations; payments to States: amount.

(a) From the sums appropriated pursuant to section 1962c of this title for any fiscal year the Council shall from time to time make allotments to the States, in accordance with its regulations, on the basis of (1) the population, (2) the land area, (3) the need for comprehensive water and related land resources planning programs, and (4) the financial need of the respective States. For the purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce and the land area of the States shall be determined on the basis of the official records of the United States Geological Survey.

(b) From each State's allotment under this section for any fiscal year the Council shall pay to such State an amount which is not more than 50 per centum of the cost of carrying out its State program approved under section 1962c-2 of this title, including the cost of training personnel for carrying out such program and the cost of administering such program. (Pub. L. 89-80, title III, § 302, July 22, 1965, 79 Stat. 251.)

§ 1962c-2. State programs; approval by Council; submission; requirements; notice and hearing prior to disapproval.

The Council shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

(1) provides for comprehensive planning with respect to intrastate or interstate water resources, or both, in such State to meet the needs for water and water-related activities taking into account prospective demands for all purposes served through or affected by water and related land resources development, with adequate provision for coordination with all Federal, State, and local agencies, and nongovernmental entities having responsibilities in affected fields;

(2) provides, where comprehensive statewide development planning is being carried on with or without assistance under section 461 of Title 40, or under the Land and Water Conservation Fund Act of 1965, for full coordination between comprehensive water resources planning and other statewide planning programs and for assurances that such water resources planning will be in conformity with the general development policy in such State;

(3) designates a State agency (hereinafter referred to as the "State agency") to administer the program;

(4) provides that the State agency will make such reports in such form and containing such information as the Council from time to time reasonably requires to carry out its functions under this subchapter;

(5) sets forth the procedure to be followed in carrying out the State program and in administering such program; and

(6) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for keeping appropriate accountability of the funds and for the proper and efficient administration of the program.

The Council shall not disapprove any program without first giving reasonable notice and opportunity for hearing to the State agency administering such program. (Pub. L. 89-80, title III, § 303, July 22, 1965, 79 Stat. 252.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in clause (2), is classified principally to sections 460*l*-4 to 460*l*-11 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962c-1, 1962c-3 of this title.

§ 1962c-3. Noncompliance; curtailing of payments.

Whenever the Council after reasonable notice and opportunity for hearing to a State agency finds that—

(a) the program submitted by such State and approved under section 1962c-2 of this title has been so changed that it no longer complies with a requirement of such section; or

(b) in the administration of the program there is a failure to comply substantially with such a requirement,

the Council shall notify such agency that no further payments will be made to the State under this subchapter until it is satisfied that there will no longer be any such failure. Until the Council is so satisfied, it shall make no further payments to such State under this subchapter. (Pub. L. 89-80, title III, § 304, July 22, 1965, 79 Stat. 252.)

§ 1962c-4. Payments to States; computation of amount.

The method of computing and paying amounts pursuant to this subchapter shall be as follows:

(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each State under the provisions of this subchapter for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Council may find necessary.

(2) The Council shall pay to the State, from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such State for any prior period under this subchapter was greater or less than the amount which should have been paid to such State for such prior period under this subchapter. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

(Pub. L. 89-80, title III, § 305, July 22, 1965, 79 Stat. 253.)

§ 1962c-5. Definition.

For the purpose of this subchapter the term "State" means a State, the District of Columbia, Puerto Rico, or the Virgin Islands. (Pub. L. 89-80, title III, § 306, July 22, 1965, 79 Stat. 253.)

§ 1962c-6. Records; audit and examination.

(a) Each recipient of a grant under this chapter shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Chairman of the Council and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this chapter. (Pub. L. 89-80, title III, § 307, July 22, 1965, 79 Stat. 253.)

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 1962d. Authorization of appropriations; limitation for single river basin commission.

There are authorized to be appropriated not to exceed $500,000 annually, to carry out the provisions of subchapter I of this chapter, not to exceed $6,000,000 annually to carry out the provisions of subchapter II of this chapter, and not to exceed $400,000 annually for the administration of subchapter III of this chapter: *Provided,* That, with respect to subchapter II of this chapter, not more than $750,000 annually shall be available for any single river basin commission. (Pub. L. 89-80, title IV, § 401, July 22, 1965, 79 Stat. 253; Pub. L. 90-547, Oct. 2, 1968, 82 Stat. 935.)

AMENDMENTS

1968—Pub. L. 90-547 increased the authorization for appropriations to carry out the provisions of subchapter I of this chapter from not to exceed $300,000 annually to not to exceed $500,000 annually.

§ 1962d-1. Rules and regulations.

The Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out those provisions of this chapter which are administered by it. (Pub. L. 89-80, title IV, § 402, July 22, 1965, 79 Stat. 254.)

§ 1962d-2. Delegation of functions.

The Council is authorized to delegate to any member or employee of the Council its administrative functions under section 1962a-4 of this title and the detailed administration of the grant program under subchapter III of this chapter. (Pub. L. 89-80, title IV, § 403, July 22, 1965, 79 Stat. 254.)

§ 1962d-3. Utilization of personnel.

The Council may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this chapter. (Pub. L. 89-80, title IV, § 404, July 22, 1965, 79 Stat. 254.)

§ 1962d-4. Northeastern United States water supply.

(a) Plans for Federal construction, operation, and maintenance of reservoir system within certain river basins and conveyance and purification facilities through cooperation of Secretary of the Army and government agencies; financial participation of States.

Congress hereby recognizes that assuring adequate supplies of water for the great metropolitan centers of the United States has become a problem of such magnitude that the welfare and prosperity of this country require the Federal Government to assist in the solution of water supply problems. Therefore, the Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with Federal, State, and local agencies in preparing plans in

accordance with the Water Resources Planning Act to meet the long-range water needs of the northeastern United States. This plan may provide for the construction, operation, and maintenance by the United States of (1) a system of major reservoirs to be located within those river basins of the northeastern United States which drain into the Chesapeake Bay, those that drain into the Atlantic Ocean north of the Chesapeake Bay, those that drain into Lake Ontario, and those that drain into the Saint Lawrence River, (2) major conveyance facilities by which water may be exchanged between these river basins to the extent found desirable in the national interest, and (3) major purification facilities. Such plans shall provide for appropriate financial participation by the States, political subdivisions thereof, and other local interests.

(b) Construction, operation, and maintenance of reservoirs and conveyance and purification facilities.

The Secretary of the Army, acting through the Chief of Engineers, shall construct, operate, and maintain those reservoirs, conveyance facilities, and purification facilities, which are recommended in the plan prepared in accordance with subsection (a) of this section, and which are specifically authorized by law enacted after October 27, 1965.

(c) Reservoirs as components of river basin and water supply plans.

Each reservoir included in the plan authorized by this section shall be considered as a component of a comprehensive plan for the optimum development of the river basin in which it is situated, as well as a component of the plan established in accordance with this section. (Pub. L. 89-298, title I, § 101, Oct. 27, 1965, 79 Stat. 1073.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is classified to this chapter.

CODIFICATION

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-10 of this title.

§ 1962d-5. Water resources development projects involving navigation, flood control, and shore protection.

(a) Construction, operation, and maintenance; limitation on estimated Federal first cost of construction; Congressional committee approval of projects; reports to Congress.

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain any water resource development project, including single and multiple purpose projects involving, but not limited to, navigation, flood control, and shore protection, if the estimated Federal first cost of constructing such project is less than $10,000,000. No appropriation shall be made to construct, operate, or maintain any such project if such project has not been approved by resolutions adopted by the Committees on Public Works of the Senate and House of Representatives, respectively. For the purpose of securing consideration of such approval the Secretary shall transmit to Congress a report of such proposed project, including all relevant data and all costs.

(b) Local cooperation requirements based on certain estimated Federal first cost of construction.

Any water resource development project authorized to be constructed by this section shall be subject to the same requirements of local cooperation as it would be if the estimated Federal first cost of such project were $10,000,000 or more. (Pub. L. 89-298, title II, § 201, Oct. 27, 1965, 79 Stat. 1073.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1965 and not as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d-5a. Reimbursement to States.

(a) Combination of reimbursement of installation costs and reduction in contributions; single project limitation.

The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreements providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed $1,000,000.

(b) Agreement provisions; termination of agreement for failure to commence work.

Agreements entered into pursuant to this section shall (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor; (2) specify the manner in which such work shall be carried out; (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee; (4) state the basis on which the amount of reimbursement shall be determined; (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken on Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

(c) Certification of performance.

No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless

and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

(d) Beach erosion control projects.

Reimbursement for work commenced by non-Federal public bodies no later than one year after August 13, 1968, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 426 of Title 33. Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after August 13, 1968, may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) Prohibition of construction for Federal assumption of responsibilities of non-Federal bodies or for Federal liability for unnecessary or inapplicable project work of such bodies.

This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) Allotment limitation for any fiscal year; specific project reimbursement authorizations.

The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed $10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement. (Pub. L. 90-483, title II, § 215, Aug. 13, 1968, 82 Stat. 747.)

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1962d-5b of this title.

§ 1962d-5b. Water resources projects; written agreement requirement.

(a) Cooperation of non-Federal interest.

After December 31, 1970, the construction of any water resources project by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under the provisions of section 1962d-5a of this title or under any other provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project.

(b) Definition of non-Federal interest.

A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.

(c) Enforcement; jurisdiction.

Every agreement entered into pursuant to this section shall be enforcible in the appropriate district court of the United States.

(d) Nonperformance of terms of agreement by non-Federal interest; notice; reasonable opportunity for performance; performance by Chief of Engineers.

After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non-Federal interest of its failure to perform the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

(e) Inventory of agreements; report to Congress.

The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon annually to the Congress.

(f) Effective date.

This section shall not apply to any project the construction of which was commenced before January 1, 1972. (Pub. L. 91-611, title II, § 221, Dec. 31, 1970, 84 Stat. 1831.)

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d-6. Feasibility studies; acceleration; advancement of costs by non-Federal sources.

The Secretary may accelerate feasibility studies authorized by law when and to the extent that the costs of such studies shall have been advanced by non-Federal sources. (Pub. L. 89-561, § 5, Sept. 7, 1966, 80 Stat. 714.)

CODIFICATION

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d-7. Delmarva Peninsula hydrologic study; duties of Secretary of Interior.

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to make a comprehensive study and investigation of the water resources of the Delmarva Peninsula with a view to determining the availability of fresh water supplies needed to meet the anticipated future water requirements of the Delmarva Peninsula area, and with a view to determining the most effective means from the standpoint of hydrologic feasibility of protecting and developing fresh water sources so as to insure, insofar as practicable, the availability of adequate water supplies in the future. In carrying out such study and investigation with respect to the Delmarva Peninsula, the Secretary shall—

(1) appraise the water use, requirements, and trends, and determine the availability of water in

the streams and underground sources for the entire peninsula;

(2) determine the depths, thicknesses, and permeabilities, the perennial yield, and the recharge characteristics of major aquifers, and the quality characteristics to be expected from each such major aquifer;

(3) determine with respect to ground water resources the continuity and extent of important water-bearing formations;

(4) determine the yield from stream systems under natural flow conditions and under varying degrees of storage and the amounts and quality of waters available from such systems during drought, flood, and intermediate conditions;

(5) determine whether sea water has moved inland into heavily pumped coastal aquifers;

(6) give special consideration to conditions which may invite the invasion of sea water into fresh-water supplies;

(7) compile and make available to appropriate State and local officials any results of this study and investigation that would be appropriate for their use in long-range planning, development, and management of water supplies;

(8) cooperate with State and local agencies for the purpose of using any information and data available to carry out the purposes of this study; and

(9) consider such other matters as the Secretary may deem appropriate to the study and investigation herein authorized.

(Pub. L. 89-618, § 1, Oct. 4, 1966, 80 Stat. 870.)

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-9, 1962d-10, 1962d-11 of this title.

§ 1962d-8. Same; reports to President and Congress.

During the course of the study and investigation authorized by sections 1962d-7 to 1962d-11 of this title, the Secretary may submit to the President for transmission to the Congress such interim reports as the Secretary may consider desirable. The Secretary shall submit a final report to the President for transmission to the Congress not more than six years after October 4, 1966. (Pub. L. 89-618, § 2, Oct. 4, 1966, 80 Stat. 870.)

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-9, 1962d-10, 1962d-11 of this title.

§ 1962d-9. Same; information from Federal agencies.

The Secretary is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purpose of sections 1962d-7 to 1962d-11 of this title, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics, to the Secretary upon his or his designee's request. (Pub. L. 89-618, § 3, Oct. 4, 1966, 80 Stat. 870.)

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-10, 1962d-11 of this title.

§ 1962d-10. Same; cooperation with other agencies.

In carrying out the study and investigation authorized by sections 1962d-7 to 1962d-11 of this title, the Secretary is authorized to cooperate with other Federal, State, and local agencies now engaged in comprehensive planning for water resource use and development in the Delmarva Peninsula area by making available to those agencies his findings and to cooperate with those agencies in the Northeastern United States Water Supply Study as authorized by section 1962d-4 of this title. (Pub. L. 89-618, § 4, Oct. 4, 1966, 80 Stat. 871.)

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-9, 1962d-11 of this title.

§ 1962d-11. Same; authorization of appropriations.

There is hereby authorized to be appropriated the sum of $500,000 to carry out the provisions of sections 1962d-7 to 1962d-11 of this title: *Provided,* That nothing in such sections shall prevent the expenditure of other funds appropriated to the Geological Survey for studies and activities performed under its general authority. (Pub. L. 89-618, § 5, Oct. 4, 1966, 80 Stat. 871.)

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1962d-8, 1962d-9, 1962d-10 of this title.

§ 1962d-12. Alaskan water resources; investigations of projects for conservation, development, and utilization; reports.

For the purpose of encouraging and promoting the development of Alaska, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make investigations of projects for the conservation, development, and utilization of the water resources of Alaska and to report thereon, with appropriate recommendations, from time to time, to the President and to the Congress. (Aug. 9, 1955, ch. 682, § 1, 69 Stat. 618.)

CODIFICATION

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d-13. Same; solicitation of views and recommendations; transmittal of report to Congress.

Prior to the transmission of any such report to the Congress, the Secretary shall transmit copies thereof for information and comment to the Governor of Alaska, or to such representative as may be

named by him, and to the heads of interested Federal departments and agencies. The written views and recommendations of the aforementioned officials may be submitted to the Secretary within ninety days from the day of receipt of said proposed report. The Secretary shall immediately thereafter transmit to the Congress, with such comments and recommendations as he deems appropriate, his report, together with copies of the views and recommendations received from the aforementioned officials. The letter of transmittal and its attachments shall be printed as a House or Senate document. (Aug. 9, 1955, ch. 682, § 2, 69 Stat. 618.)

CODIFICATION

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

§ 1962d-14. Same; appropriations.

There are hereby authorized to be appropriated not more than $250,000 in any one fiscal year. (Aug. 9, 1955, ch. 682, § 3, 69 Stat. 618.)

CODIFICATION

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

Chapter 20.—ELECTIVE FRANCHISE

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SUBCHAPTER I.—GENERALLY

§ 1971. Voting rights.

(a) Race, color, or previous condition not to affect right to vote; uniform standards for voting qualifications; errors or omissions from papers; literacy tests; agreements between Attorney General and State or local authorities; definitions.

(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

(2) No person acting under color of law shall—

(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

(B) deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

(C) employ any literacy test as a qualification for voting in any election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to sections 1974 to 1974e of this title: *Provided, however,* That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

(3) For purposes of this subsection—

(A) the term "vote" shall have the same meaning as in subsection (e) of this section;

(B) the phrase "literacy test" includes any test of the ability to read, write, understand, or interpret any matter.

(b) Intimidation, threats, or coercion.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Preventive relief; injunction; rebuttable literacy presumption; liability of United States for costs; State as party defendant.

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action of other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any election. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) Jurisdiction; exhaustion of other remedies.

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions.

In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by Revised Statutes, section 1757; to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The

issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word "vote" includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

(f) Contempt; assignment of counsel; witnesses.

Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

(g) Three-judge district court: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action.

In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief of the circuit (or, in his absence, the acting chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. (R.S. § 2004; Sept. 9, 1957, Pub. L. 85-315, pt. IV, § 131, 71 Stat. 637; May 6, 1960, Pub. L. 86-449, title VI, § 601, 74 Stat. 90; July 2, 1964, Pub. L. 88-352, title I, § 101, 78 Stat. 241; Aug. 6, 1965, Pub. L. 89-110, § 15, 79 Stat. 445.)

DERIVATION

Act May 31, 1870, ch. 114, § 1, 16 Stat. 140.

REFERENCES IN TEXT

Revised Statutes, section 1757, referred to in subsec. (e), was repealed in the general revision of Title 5, and the provisions are now covered by section 3331 of Title 5, Government Organization and Employees.

This Act, referred to in subsec. (f), means Pub. L. 85-315, which is classified to this section and sections 1975—1975e and 1995 of this title, former section 295-1 of Title 5, and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1965—Subsecs. (a) and (c). Pub. L. 89-110, § 15(a), struck out "Federal" before "election" wherever appearing.

Subsec. (f). Pub. L. 89-110, § 15(b), redesignated former subsec. (g) as subsec. (f) and repealed former subsec. (f) which defined "Federal elections."

Subsec. (g). Pub. L. 89-110, § 15(b), redesignated former subsec. (h) as subsec. (g). Former subsec. (g) redesignated as (f).

Subsec. (h). Pub. L. 89-110, § 15(b), redesignated former subsec. (h) as subsec. (g). Former subsec. (g) redesignated as (f).

1964—Subsec. (a). Pub. L. 88-352, § 101(a) designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 88-352, § 101(b), provided for a rebuttable literacy presumption when a person has not been adjudged an incompetent and has completed the sixth grade of his schooling.

Subsec. (f). Pub. L. 88-352, § 101(c), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 88-352, § 101(c), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 88-352, § 101(d), added subsec. (h).

1960—Subsec. (c). Pub. L. 86-449, § 601(b), permitted the State to be joined as a party defendant in cases where officials of a State or subdivision thereof are alleged to have committed acts or practices constituting a deprivation of any rights or privileges secured by subsection (a) of this section, and authorized commencement of the proceeding against the State where an official has resigned or has been relieved of his office and no successor has assumed such office.

Subsec. (e). Pub. L. 86-449, § 601(a), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 86-449, § 601(a), redesignated former subsec. (e) as (f).

1957—Pub. L. 85-315, § 131(a), substituted in catchline "Voting rights" for "Race, color, or previous condition not to affect right to vote".

Subsec. (a). Pub. L. 85-315, § 131 (b) designated existing provisions as subsec. (a).

Subsecs. (b)—(e). Pub. L. 85-315, § 131(c) added subsecs (b)—(e).

SHORT TITLE

Section 1 of Pub. L. 86-449 provided that Pub. L. 86-449, which enacted sections 1974—1974e of this title and sections 837, 1074, and 1509 of Title 18, Crimes and Criminal Procedure, and amended this section and sections 241 and 640 of Title 20, Education, may be cited as the "Civil Rights Act of 1960."

SEPARABILITY OF PROVISIONS

Section 701 of Pub. L. 86-449 provided that: "If any provision of this Act [adding sections 1974—1974e of this title and sections 837, 1074, and 1509 of Title 18, Crimes and Criminal Procedure, and amending this section and sections 241 and 640 of Title 20, Education] is held invalid, the remainder of this Act shall not be affected thereby."

§ 1972. Interference with freedom of elections.

No officer of the Army, Navy, or Air Force of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. (R. S. § 2003.)

DERIVATION

Act Feb. 25, 1865, ch. 52, § 1, 13 Stat. 437.

CODIFICATION

Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(10)], July 22, 1949, which transferred certain functions to the Air Force. Section 207 (a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 8011—8013 continued the military Department of the Air Force under the administrative supervision of a Secretary of the Air Force.

SUBCHAPTER I-A.—ENFORCEMENT OF VOTING RIGHTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973aa-4 of this title.

§ 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites.

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color. (Pub. L. 89-110, title I, § 2, Aug. 6, 1965, 79 Stat. 437.)

SHORT TITLE

Sction 1 of Pub. L. 91-285, June 22, 1970, 84 Stat. 314, provided: "That this Act [which designated existing provisions as Title I of Pub. L. 89-110 (classified to this subchapter), enacted subchapters I-B and I-C of this chapter, and amended sections 1973b(a), (b) and 1973c of this title] may be cited as the 'Voting Rights Act Amendments of 1970'."

Section 1 of Pub. L. 89-110 provided that Pub. L. 89-110, comprising this subchapter and amending section 1971 of this title, shall be known as the "Voting Rights Act of 1965."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973a. Proceeding to enforce the right to vote.

(a) Authorization by court for appointment of federal examiners.

Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 1973d of this title to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of

any interlocutory order if the court determines that the appointment of such examiners is necesary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided,* That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) Suspension of use of tests and devices which deny or abridge the right to vote.

If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) Retention of jurisdiction to prevent commencement of new devices to deny or abridge the right to vote.

If in any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. (Pub. L. 89–110, title I, § 3, Aug. 6, 1965, 79 Stat. 437.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973f, 1973i, 1973j, 1973k of this title.

§ 1973b. Suspension of the use of tests or devices in determining eligibility to vote.

(a) Action by state or political subdivision for declaratory judgment of no denial or abridgement; three-judge district court; appeal to Supreme Court; retention of jurisdiction by three-judge court.

To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided,* That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this subchapter, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

(b) Required factual determinations necessary to allow suspension of compliance with tests and devices; publication in Federal Register.

The provisions of subsection (a) of this section shall apply in any State or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the

previous sentence, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 1973d or 1973k of this title shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) Definition of test or device.

The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter. (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) Required frequency, continuation and probable recurrence of incidents of denial or abridgement to constitute forbidden use of tests or devices.

For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e) Completion of requisite grade level of education in American-flag schools in which the predominant classroom language was other than English.

(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English. (Pub. L. 89–110, title I, § 4, Aug. 6, 1965, 79 Stat. 438; Pub. L. 91–285, §§ 3, 4, June 22, 1970, 84 Stat. 315.)

REFERENCES IN TEXT

The enactment of this subchapter, referred to in subsec. (a), means the enactment of Pub. L. 89–110, which was approved on Aug. 6, 1965.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–285, § 3, substituted "ten" for "five" years in the first and third paragraphs.

Subsec. (b). Pub. L. 91–285, § 4, added provision respecting the making of factual determinations concerning maintenance of any test or device on Nov. 1, 1968, registration of less than 50 per centum of persons of voting age on Nov. 1, 1968, and voting by less than 50 per centum of such persons in the presidential election of November 1968.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973c, 1973d, 1973h, 1973j, 1973*l*, 1973aa of this title.

§ 1973c. Alteration of voting qualifications and procedures; action by state or political subdivision for declaratory judgment of no denial or abridgement of voting rights; three-judge district court; appeal to Supreme Court.

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal

shall lie to the Supreme Court. (Pub. L. 89-110, title I, § 5, Aug. 6, 1965, 79 Stat. 439; Pub. L. 91-285, § 5, June 22, 1970, 84 Stat. 315.)

AMENDMENTS

1970—Pub. L. 91-285 inserted "based upon determinations made under the first sentence of section 1973b(b) of this title" following "section 1973b(a) of this title" and "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968," after "1964,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973*l* of this title.

§ 1973d. Federal voting examiners; appointment.

Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 1973a(a) of this title, or (b) unless a declaratory judgment has been rendered under section 1973b(a) of this title, the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 1973b(b) of this title that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 1973g(a) of this title and other persons deemed necessary by the Commission to carry out the provisions and purposes of this subchapter shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this subchapter shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended, prohibiting partisan political activity: *Provided*, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths. (Pub. L. 89-110, title I, § 6, Aug. 6, 1965, 79 Stat. 439.)

REFERENCES IN TEXT

Section 9 of the Act of August 2, 1939, as amended, referred to in the text, was repealed in the general revision of Title 5 and the provisions are now covered by sections 7324 and 7325 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973a, 1973b, 1973i, 1973k of this title.

§ 1973e. Examination of applicants for registration.

(a) Form of application; requisite allegation of nonregistration.

The examiners for each political subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Placement of eligible voters on official lists; transmittal of lists.

Any person whom the examiner finds, in accordance with instructions received under section 1973g (b) of this title, to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 1973g(a) of this title and shall not be the basis for a prosecution under section 1973j of this title. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d) of this section: *Provided*, That no person shall be entitled to vote in any election by virtue of this subchapter unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) Certificate of eligibility.

The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) Removal of names from list by examiners.

A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 1973g of this title, or (2) he has been determined by an examiner to have lost his eligibility to vote under

State law not inconsistent with the Constitution and the laws of the United States. (Pub. L. 89–110, title I, § 7, Aug. 6, 1965, 79 Stat. 440.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973f. Observers at elections; assignment; duties; reports.

Whenever an examiner is serving under this subchapter in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 1973a(a) of this title, to the court. (Pub. L. 89–110, title I, § 8, Aug. 6, 1965, 79 Stat. 441.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973l of this title.

§ 1973g. Challenges to eligibility listings.

(a) Filing of challenge; supplementary affidavits; service upon person challenged; hearing; review.

Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) Rules and regulations by Civil Service Commission.

The times, places, procedures, and form for application and listing pursuant to this subchapter and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consulation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Subpena power of Civil Service Commission; contempt.

Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof. (Pub. L. 89–110, title I, § 9, Aug. 6, 1965, 79 Stat. 441.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973e, 1973i, 1973*l* of this title.

§ 1973h. Poll taxes.

(a) Congressional finding and declaration of policy against enforced payment of poll taxes as a device to impair voting rights.

The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) Authority of Attorney General to institute actions for relief against enforcement of poll tax requirement.

In the exercise of the powers of Congress under section 5 of the fourteenth amendment and section 2 of the fifteenth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment

of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) of this section and the purposes of this section.

(c) Jurisdiction of three-judge district courts; appeal to Supreme Court.

The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) Post-payment of poll taxes in the event of a judicial declaration of constitutionality.

During the pendency of such actions, and thereafter if the courts, notwithstanding this action by the Congress, should declare the requirement of the payment of a poll tax to be constitutional, no citizen of the United States who is a resident of a State or political subdivision with respect to which determinations have been made under section 1973b(b) of this title and a declaratory judgment has not been entered under section 1973b(a) of this title, during the first year he becomes otherwise entitled to vote by reason of registration by State or local officials or listing by an examiner, shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner or to the appropriate State or local official at least forty-five days prior to election, whether or not such tender would be timely or adequate under State law. An examiner shall have authority to accept such payment from any person authorized by this subchapter to make an application for listing, and shall issue a receipt for such payment. The examiner shall transmit promptly any such poll tax payment to the office of the State or local official authorized to receive such payment under State law, together with the name and address of the applicant. (Pub. L. 89-110, title I, § 10, Aug. 6, 1965, 79 Stat. 442.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973i. Prohibited acts.

(a) Failure or refusal to permit casting or tabulation of vote.

No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this subchapter or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) Intimidation, threats, or coercion.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 1973a(a), 1973d, 1973f, 1973g, 1973h or 1973j(e) of this title.

(c) False information in registering or voting; penalties.

Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Falsification or concealment of material facts or giving of false statements in matters within jurisdiction of examiners or hearing officers; penalties.

Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both. (Pub. L. 89-110, title I, § 11, Aug. 6, 1965, 79 Stat. 443; Pub. L. 91-405, title II, § 204(e), Sept. 22, 1970, 84 Stat. 853.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-405 substituted reference to Delegate from District of Columbia for Delegates or Commissioners from territories or possessions.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973aa-1 of this title.

§ 1973j. Same; civil and criminal sanctions.

(a) Depriving or attempting to deprive persons of secured rights.

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, or 1973h of this title or shall violate section 1973i(a) of this title, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Destroying, defacing, mutilating, or altering ballots or official voting records.

Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated

from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Conspiring to violate or interfere with secured rights.

Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, or 1973i(a) of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Civil action by Attorney General for preventive relief; injunctive and other relief.

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, 1973i, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this subchapter to vote and (2) to count such votes.

(e) Proceeding by Attorney General to enforce the counting of ballots of registered and eligible persons who are prevented from voting.

Whenever in any political subdivision in which there are examiners appointed pursuant to this subchapter any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this subchapter or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) Jurisdiction of district courts; exhaustion of administrative or other remedies unnecessary.

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this subchapter shall have exhausted any administrative or other remedies that may be provided by law. (Pub. L. 89–110, title I, § 12, Aug. 6, 1965, 79 Stat. 443; Pub. L. 90–284, title I, § 103(c), Apr. 11, 1968, 82 Stat. 75.)

AMENDMENTS

1968—Subsecs. (a), (c). Pub. L. 90–284 struck out reference to violation of section 1973i(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973e, 1973i of this title.

§ 1973k. Termination of listing procedures; basis for termination; survey or census by Director of the Census.

Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 1973d of this title whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 1973a(a) of this title, upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable. (Pub. L. 89–110, title I, § 13, Aug. 6, 1965, 79 Stat. 444.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973b, 1973i of this title.

§ 1973*l*. Enforcement proceedings.

(a) Criminal contempt.

All cases of criminal contempt arising under the provisions of this subchapter shall be governed by section 1995 of this title.

(b) Jurisdiction of courts for declaratory judgment, restraining orders, or temporary or permanent injunction.

No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 1973g of this title shall have jurisdiction to issue any declaratory judgment pursuant to section 1973b or 1973c of this title or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this subchapter or any action of any Federal officer or employee pursuant hereto.

(c) Definitions.

(1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this

subchapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(d) Subpenas.

In any action for a declaratory judgment brought pursuant to section 1973b or 1973c of this title, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided,* That no writ of subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown. (Pub. L. 89–110, title I, § 14, Aug. 6, 1965, 79 Stat. 445.)

§ 1973m. Study by Attorney General and Secretary of Defense of discriminatory practices affecting voting rights of Armed Forces personnel.

CODIFICATION

Section, Pub. L. 89–110, title I, § 16, Aug. 6, 1965, 79 Stat. 445, authorizing the Attorney General and the Secretary of Defense, jointly, to make a study to determine whether the laws or practices of any State or States impose preconditions to voting resulting in discrimination against Armed Forces personnel seeking to vote and to make a report to Congress not later than June 30, 1966, with the results of such study and recommendations for legislation, has been omitted as executed.

§ 1973n. Impairment of voting rights of persons holding current registration.

Nothing in this subchapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision. (Pub. L. 89–110, title I, § 17, Aug. 6, 1965, 79 Stat. 446.)

§ 1973o. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter. (Pub. L. 89–110, title I, § 18, Aug. 6, 1965, 79 Stat. 446.)

§ 1973p. Separability of provisions.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Pub. L. 89–110, title I, § 19, Aug. 6, 1965, 79 Stat. 446.)

SUBCHAPTER I-B.—SUPPLEMENTAL PROVISIONS

§ 1973aa. Application of prohibition to other States; definition of "test or device".

(a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in an State or political subdivision of a State as to which the provisions of section 1973b(a) of this title are not in effect by reason of determinations made under section 1973b (b) of this title.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class. (Pub. L. 89–110, title II, § 201, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 315.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa–2, 1973aa–3 of this title.

§ 1973aa–1. Residence requirements for voting.

(a) Congressional findings.

The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Congressional declaration: durational residency requirement, abolishment; absentee registration and balloting standards, establishment.

Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) Prohibition of denial of right to vote because of durational residency requirement or absentee balloting.

No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) Registration: time for application; absentee balloting; time of application and return of ballots.

For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) Change of residence; voting in person or by absentee ballot in State of prior residence.

If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) Absentee registration requirement.

No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) State or local adoption of less restrictive voting practices.

Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) Definition of "State".

The term "State" as used in this section includes each of the several States and the District of Columbia.

(i) False registration, and other fraudulent acts and conspiracies: application of penalty for false information in registering or voting.

The provisions of section 1973i(c) of this title shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section. (Pub. L. 89–110, title II, § 202, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 316.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa–2, 1973aa–3 of this title.

§ 1973aa–2. Judicial relief; civil actions by the Attorney General; three-judge district court; appeal to Supreme Court.

Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 1973aa of this title, or (b) undertakes to deny the right to vote in any election in violation of section 1973aa–1 of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of Title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of Title 28 and any appeal shall be to the Supreme Court. (Pub. L. 89–110, title II, § 203, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 317.)

CROSS REFERENCES

Supreme Court jurisdiction, direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

§ 1973aa–3. Penalty.

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973aa or 1973aa–1 of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both. (Pub. L. 89–110, title II, § 204, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 317.)

§ 1973aa–4. Separability of provisions.

If any provision of subchapters I–A to I–C of this chapter or the application of any provision thereof

to any person or circumstance is judicially determined to be invalid, the remainder of subchapters I–A to I–C of this chapter or the application of such provision to other persons or circumstances shall not be affected by such determination. (Pub. L. 89–110, title II, § 205, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318.)

SUBCHAPTER I–C.—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973aa–4 of this title.

§ 1973bb. Congressional declaration and findings; prohibition of denial of right to vote because of age.

(a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

(3) does not bear a reasonable relationship to any compelling State interest.

(b) In order to secure the constitutional rights set forth in subsection (a) of this section, the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over. (Pub. L. 89–110, title III, § 301, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318.)

§ 1973bb–1. Prohibition of denial of right to vote because of age.

Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen year of age or older. (Pub. L. 89–110, title III, § 302, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318.)

§ 1973bb–2. Enforcement.

(a) Civil actions by the Attorney General; jurisdiction; three-judge district court; appeal to Supreme Court; expedition of cases.

(1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this subchapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subchapter, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Penalty.

Whoever shall deny or attempt to deny any person of any right secured by this subchapter shall be fined not more than $5,000 or imprisoned not more than five years, or both. (Pub. L. 89–110, title III, § 303, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 318.)

CROSS REFERENCES

Supreme Court jurisdiction, direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

§ 1973bb–3. Definition of "State".

As used in this subchapter the term "State" includes the District of Columbia. (Pub. L. 89–110; title III, § 304, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 319.)

§ 1973bb–4. Effective date.

The provisions of this subchapter shall take effect with respect to any primary or election held on or after January 1, 1971. (Pub. L. 89–110, title III, § 305, as added Pub. L. 91–285, § 6, June 22, 1970, 84 Stat. 319.)

SUBCHAPTER II.—FEDERAL ELECTION RECORDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1971 of this title.

§ 1974. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation.

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both. (Pub. L. 86–449, title III, § 301, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1974a, 1974b of this title.

§ 1974a. Theft, destruction, concealment, mutilation, or alteration of records or papers; penalties.

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 1974 of this title to be retained and preserved shall be fined not more than $1,000 or imprisoned not more than one year, or both. (Pub. L. 86–449, title III, § 302, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

§ 1974b. Demand for records or papers by Attorney General or representative; statement of basis and purpose.

Any record or paper required by section 1974 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor. (Pub. L. 86–449, title III, § 303, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1971, 1974d of this title.

§ 1974c. Disclosure of records or papers.

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this subchapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury. (Pub. L. 86–449, title III, § 304, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

§ 1974d. Jurisdiction to compel production of records or papers.

The United States district court for the district in which a demand is made pursuant to section 1974b of this title, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper. (Pub. L. 86–449, title III, § 305, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

§ 1974e. Definitions.

As used in this subchapter, the term "officer of election" means any person who, under color of any Federal, State, Commonwealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico. (Pub. L. 86–449, title III, § 306, May 6, 1960, 74 Stat. 88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

Chapter 20A.—CIVIL RIGHTS COMMISSION

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§ 1975. Commission on Civil Rights.

(a) Establishment.

There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").

(b) Composition; appointment.

The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) Chairman and Vice Chairman.

The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Vacancies.

Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Quorum.

Four members of the Commission shall constitute a quorum. (Pub. L. 85-315, pt. I, § 101, Sept. 9, 1957, 71 Stat. 634.)

SHORT TITLE

Section 161 of Pub. L. 85-315 provided that Pub. L. 85-315, which enacted sections 1975—1975e and 1995 of this title, and former section 295-1 of Title 5, amended section 1971 of this title, and sections 1343 and 1861 of Title 28, and repealed section 1993 of this title, should be popularly known as the "Civil Rights Act of 1957."

§ 1975a. Rules of procedure.

(a) Publication in Federal Register of date, place and subject of hearing; opening statement.

At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) Copy of rules.

A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

(c) Representation, examination, objections, and argument by counsel; dispatch of hearings; convenience and necessity of witnesses.

Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) Censure and exclusion for breaches of order and decorum.

The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) Defamatory, degrading, or incriminating evidence or report.

If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Requests for additional witnesses.

Except as provided in this section and section 1975d(f) of this title, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) Release of evidence taken in executive session.

No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

(h) Submission of written statements.

In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Transcripts.

Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of

all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) Witness fees.

A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) Restriction on issuance of subpena.

The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

***(l)* Publication in Federal Register of organization statement, procedure, and rules.**

The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published. (Pub. L. 85–315, pt. I, § 102, Sept. 9, 1957, 71 Stat. 634; Pub. L. 88–352, title V, § 501, July 2, 1964, 78 Stat. 249; Pub. L. 91–521, § 4, Nov. 25, 1970, 84 Stat. 1357.)

AMENDMENTS

1970—Subsec. (e). Pub. L. 91–521 added the provisions setting forth the procedure for any person defamed, degraded, or incriminated in a report of the Commission to answer such defamation, degradation, or incrimination.

1964—Subsec. (a). Pub. L. 88–352 required publication in Federal Register of notice of date, place, and subject of hearing.

Subsec. (b). Pub. L. 88–352 required service of copy of Commission's rules at time of service of subpena compelling witness to appear before Commission or requiring witness to produce written or other matter.

Subsec. (c). Pub. L. 88–352 substituted provisions for right of representation by counsel; examination, objections, and argument by counsel; concluding hearings with reasonable dispatch; and due regard for convenience and necessity of witnesses, for former provision permitting witnesses to be advised concerning their constitutional rights by counsel.

Subsec. (d). Pub. L. 88–352 deleted provision for punishment of unprofessional ethics on part of counsel.

Subsec. (e). Pub. L. 88–352 required the receipt in executive session of summary of evidence or testimony tending to degrade; the Commission, before deciding to use the evidence or testimony tending to degrade, to afford the defamed, degraded, or incriminated person an opportunity to appear in executive session with additional witnesses; and the Commission, prior to public release or use of such evidence or testimony so as to reveal publicly the identity of such person, to afford such person an opportunity in public session to file a sworn statement in his behalf and to submit sworn statements of others.

Subsec. (f). Pub. L. 88–352 reenacted provisions without change.

Subsec. (g). Pub. L. 88–352 inserted "or summary of evidence or testimony" following introductory words "No evidence or testimony" and "such" preceding "evidence."

Subsec. (h). Pub. L. 88–352 substituted "shall determine" for "is the sole judge of."

Subsec. (i). Pub. L. 88–352 substituted provisions entitling person to retain or procure transcript of data or evidence such person submitted on payment of costs, permitting witness to be limited to an inspection of official transcript of his testimony in executive session, permitting public to obtain transcripts of public sessions upon payment of costs, and requiring transcripts of the testimony at all hearings, public or executive sessions, of the Commission or any subcommittee thereof for former provision authorizing witness to obtain transcript of his testimony at public session upon payment of costs or, if given at an executive session, when authorized by the Commission.

Subsec. (j). Pub. L. 88–352 increased witness fees for daily attendance from $4 to $6 and mileage from 8 to 10 cents per mile and decreased additional allowance for subsistence of witnesses too removed to return to their residences from $12 to $10 per day.

Subsec. (k). Pub. L. 88–352 allowed the Commission to subpena a witness to testify within the State in which he has appointed an agent for service of process and to testify outside the State if the hearing is to be held within fifty miles of the place in which he is found, resides or is domiciled, does business, or has appointed an agent for service of process.

Subsec. (*l*). Pub. L. 88–352 added subsec. (*l*).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1975d of this title.

§ 1975b. Compensation of members.

(a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $100 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended. (Pub. L. 85–315, pt. I, § 103, Sept. 9, 1957, 71 Stat. 635; Pub. L. 88–352, title V, §§ 502, 503, July 2, 1964, 78 Stat. 250, 251; Pub. L. 91–521, § 1, Nov. 25, 1970, 84 Stat. 1356.)

REFERENCES IN TEXT

Section 5 of the Administrative Expenses Act of 1946, as amended, referred to in subsec. (a), was repealed in the general revision of Title 5, and the provisions are now covered by section 5703 of Title 5, Government Organization and Employees.

The Travel Expenses Act of 1949, as amended, referred to in subsec. (b), was repealed in the general revision of Title 5, and the provisions are now covered by section 5701 et seq. of Title 5.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-521 increased from $75 to $100 per day the compensation paid to each member of the Comimssion not otherwise in the service of the Government of the United States.

1964—Subsec. (a). Pub. L. 88-352, § 502, increased the compensation of members of the Commission not otherwise in Government service from $50 to $75 for each day of service and substituted "shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended" for "shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence when away from his usual place of residence, inclusive of fees or tips to porters and stewards."

Subsec. (b). Pub. L. 88-352, § 503, substituted "shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended" for "shall be reimbursed for actual and necessary travel expenses, and shall receive a per diem allowance of $12 in lieu of actual expenses for subsistence when away from his usual place of residence, inclusive of fees or tips to porters and stewards."

§ 1975c. Duties; reports; termination.

(a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion or national origin or in the administration of justice;

(4) serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

(6) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1973.

(c) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist. (Pub. L. 85-315, pt. I, § 104, Sept. 9, 1957, 71 Stat. 635; Pub. L. 86-383, title IV, § 401, Sept. 28, 1959, 73 Stat. 724; Pub. L. 87-264, title IV, § 401, Sept. 21, 1961, 75 Stat. 559; Pub. L. 88-152, § 2, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88-352, title V, § 504, July 2, 1964, 78 Stat. 251; Pub. L. 90-198, § 1, Dec. 14, 1967, 81 Stat. 582.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(6), means Pub. L. 85-315, which is classified to sections 1971, 1975-1975e, and 1995 of this title, former section 295-1 of Title 5, and sections 1343 and 1861 of Title 28.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-198 extended the time of the Commission to submit a final report from Jan. 31, 1968 to Jan. 31, 1973.

1964—Subsec. (a). Pub. L. 88-352, § 504(a), added the words "because of race, color, religion or national origin or in the administration of justice" to pars. (2) and (3) and added pars. (4)—(6).

Subsec. (b). Pub. L. 88-352, § 504(b), provided for the submission of reports at such times as the Congress deems desirable, substituted "final report" for "final and comprehensive report" and extended the time of the Commission to submit a final report from Sept. 30, 1964, to Jan. 31, 1968.

1963—Subsec. (b). Pub. L. 88-152 extended the time of the Commission to submit a final report from Sept. 30, 1963, to Sept. 30, 1964.

1961—Subsec. (b). Pub. L. 87-264 extended the time of the Commission to submit a final report from four years from Sept. 9, 1957, to Sept. 30, 1963.

1959—Subsec. (b). Pub. L. 86-383 substituted "four years" for "two years."

§ 1975d. Powers.

(a) Staff director; appointment and compensation; personnel and services.

There shall be a full-time staff director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of staff director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 15 of the Act of August 2, 1946, but at rates for individuals not in excess of $100 per diem.

(b) Services of voluntary or uncompensated personnel.

The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in paragraph (g) of section 1975a of this title shall be construed to mean a person whose services are compensated by the United States.

(c) Advisory committees.

The Commission may constitute such advisory committees within States composed of citizens of that State and may consult with governors, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Exemption from conflict-of-interest statutes.

Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, and section 190 of the Revised Statutes.

(e) Cooperation With Federal agencies.

All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) Hearings; issuance of subpenas.

The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 1975a (j) and (k) of this title, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subsection, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

(g) Aid of courts in enforcing subpenas.

In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Oaths and affirmations.

Without limiting the generality of the foregoing, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i) Rules and regulations.

The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act. (Pub. L. 85–315, pt. I, § 105, Sept. 9, 1957, 71 Stat. 636; Pub. L. 86–449, title IV, § 401, May 6, 1960, 74 Stat. 89; Pub. L. 88–352, title V, §§ 505—507, July 2, 1964, 78 Stat. 251, 252; Pub. L. 91–521, § 2, Nov. 25, 1970, 84 Stat. 1356.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

The classification laws, referred to in subsec. (a), are classified to chapter 51 and subchapter III of chapter 53 of Title 5.

Section 15 of the Act of August 2, 1946, referred to in subsec. (a), was repealed in the general revision of Title 5, and the provisions are now covered by section 3109 of Title 5.

Sections 281, 283, 284, 434, and 1914 of Title 18, referred to in subsec. (d), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, and are now covered by sections 203, 205, 207, 208, and 209, respectively, of Title 18, Crimes and Criminal Procedure.

Section 190 of the Revised Statutes, referred to in subsec. (d), was repealed by Pub. L. 87–849, § 3, Oct. 23, 1962, 76 Stat. 1126. See section 207 of Title 18.

This act, referred to in subsecs. (f) and (i), means Pub. L. 85–315, which is classified to sections 1971, 1975—1975e, and 1995 of this title, former section 295–1 of Title 5, and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–521 increased the compensation for services of experts and consultants from $75 to $100 per diem.

1964—Subsec. (a). Pub. L. 88–352, § 505, increased the compensation for services of experts and consultants from $50 to $75 per diem.

Subsec. (f). Pub. L. 88–352, § 506, provided for approval of Commission or subcommittee hearings by a majority of the Commission or by a majority of the members present at a meeting having a quorum of four members present.

Subsec. (g). Pub. L. 88–352, § 506, authorized Federal district courts to order compliance with Commission subpenas by persons domiciled within the jurisdiction of the court or who have appointed an agent for service of process within the jurisdiction and substituted provision for production of "pertinent, relevant and nonprivileged evidence" for production of "evidence."

Subsec. (i). Pub. L. 88–352, § 507, added subsec. (i).

1960—Subsec. (h). Pub. L. 86–449 added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1975a of this title.

§ 1975e. Authorization of appropriations.

For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until January 31, 1973, the sum of $3,400,000. (Pub. L. 85–315, pt. I, § 106, Sept. 9, 1957, 71 Stat. 636; Pub. L. 90–198, § 2, Dec. 14, 1967, 81 Stat. 582; Pub. L. 91–521, § 3, Nov. 25, 1970, 84 Stat. 1356.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 85-315, which is classified to sections 1971, 1975—1975e, and 1995 of this title, former section 295-1 of Title 5, and sections 1343 and 1861 of Title 28.

AMENDMENTS

1970—Pub. L. 91-521 substituted provisions authorizing to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until Jan. 31, 1973, the sum of $3,400,000, for provisions authorizing to be appropriated for the fiscal year ending June 30, 1968, and for each of the four succeeding fiscal years, the sum of $2,650,000, for each such fiscal year.

1967—Pub. L. 90-198 substituted provisions authorizing a specific appropriation of $2,650,000 for the fiscal year ending June 30, 1968, and for each of the four succeeding fiscal years for provisions which authorized the appropriation, out of any money in the Treasury not otherwise appropriated, of so much as may be necessary to carry out the provision of this Act.

Chapter 21.—CIVIL RIGHTS

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(d) Training programs.
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(g) National security.
(h) Seniority or merit system; quantity or quality of production; ability tests; compensation based on sex and authorized by minimum wage provisions.
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(c) Same; notification of State or local authority; time for action on charges by Commission.
(d) Time for filing charges after occurrence of unlawful practices or termination of State or local enforcement proceedings; filing of charges by Commission with State or local agency.
(e) Civil actions for prevention of unlawful practices; legal representation; commencement of action without payment of fees, costs, or security; intervention by Attorney General; stay of Federal proceedings.
(f) Jurisdiction and venue of United States courts.
(g) Injunctions; appropriate affirmative action; reinstatement, hiring, back pay; reduction of back pay by interim earnings or amount earnable; limitations on judicial orders.
(h) Provisions of sections 101 to 115 of Title 29 not applicable to civil actions for prevention of unlawful practices.
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(a) Complaint.
(b) Jurisdiction; three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action.
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(a) Examination and copying of evidence related to unlawful employment practices.
(b) Cooperation with State and local agencies administering State fair employment practices laws; utilization of services; reimbursement; agreements and rescission of agreements.
(c) Execution, retention, and preservation of records; reports to Commission; training program records; appropriate relief from regulation or order for undue hardship.
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SUBCHAPTER I.—GENERALLY

§ 1981. Equal rights under the law.

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other. (R. S. § 1977.)

DERIVATION

Act May 31, 1870, ch. 114, § 16, 16 Stat. 144.

§ 1982. Property rights of citizens.

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property. (R. S. § 1978.)

DERIVATION

Act Apr. 9, 1866, ch. 31, § 1, 14 Stat. 27.

EX. ORD. NO. 11063. EQUAL OPPORTUNITY IN HOUSING

Ex. Ord. No. 11063, Nov. 20, 1962, 27 F.R. 11527, provided:

WHEREAS the granting of Federal assistance for the provision, rehabilitation, or operation of housing and related facilities from which Americans are excluded because of their race, color, creed, or national origin is unfair, unjust, and inconsistent with the public policy of the United States as manifested in its Constitution and laws; and

WHEREAS the Congress in the Housing Act of 1949 [see chapters 8 and 8A of this title and chapter 13 of Title 12, Banks and Banking] has declared that the general welfare and security of the Nation and the health and living standards of its people require the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family; and

WHEREAS discriminatory policies and practices based upon race, color, creed, or national origin now operate to deny many Americans the benefits of housing financed through Federal assistance and as a consequence prevent such assistance from providing them with an alternative to substandard, unsafe, unsanitary, and overcrowded housing; and

WHEREAS such discriminatory policies and practices result in segregated patterns of housing and necessarily produce other forms of discrimination and segregation which deprive many Americans of equal opportunity in the exercise of their unalienable rights to life, liberty, and the pursuit of happiness; and

WHEREAS the executive branch of the Government, in faithfully executing the laws of the United States which authorize Federal financial assistance, directly or indirectly, for the provision, rehabilitation,, and operation of housing and related facilities, is charged with an obligation and duty to assure that those laws are fairly administered and that benefits thereunder are made available to all Americans without regard to their race, color, creed, or national origin:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

PART I—PREVENTION OF DISCRIMINATION

SECTION 101. I hereby direct all departments and agencies in the executive branch of the Federal Government, insofar as their functions relate to the provision, rehabilitation, or operation of housing and related facilities, to take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin—

(a) in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are—

(i) owned or operated by the Federal Government, or

(ii) provided in whole or in part with the aid of loans, advances, grants, or contributions hereafter agreed to be made by the Federal Government, or

(iii) provided in whole or in part by loans hereafter insured, guaranteed, or otherwise secured by the credit of the Federal Government, or

(iv) provided by the development or the redevelopment of real property purchased, leased, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under a loan of grant contract hereafter entered into; and

(b) in the lending practices with respect to residential property and related facilities (including land to be

developed for residential use) of lending institutions, insofar as such practices relate to loans hereafter insured or guaranteed by the Federal Government.

SEC. 102. I hereby direct the Housing and Home Finance Agency and all other executive departments and agencies to use their good offices and to take other appropriate action permitted by law, including the institution of appropriate litigation, if required, to promote the abandonment of discriminatory practices with respect to residential property and related facilities heretofore provided with Federal financial assistance of the types referred to in Section 101(a)(ii),(iii), and (iv).

PART II—IMPLEMENTATION BY DEPARTMENTS AND AGENCIES

SEC. 201. Each executive department and agency subject to this order is directed to submit to the President's Committee on Equal Opportunity in Housing established pursuant to Part IV of this order (hereinafter sometimes referred to as the Committee), within thirty days from the date of this order, a report outlining all current programs administered by it which are affected by this order.

SEC. 202. Each such department and agency shall be primarily responsible for obtaining compliance with the purposes of this order as the order applies to programs administered by it; and is directed to cooperate with the Committee, to furnish it, in accordance with law, such information and assistance as it may request in the performance of its functions, and to report to it at such intervals as the Committee may require.

SEC. 203. Each such department and agency shall, within thirty days from the date of this order, issue such rules and regulations, adopt such procedures and policies, and make such exemptions and exceptions as may be consistent with law and necessary or appropriate to effectuate the purposes of this order. Each such department and agency shall consult with the Committee in order to achieve such consistency and uniformity as may be feasible.

PART III—ENFORCEMENT

SEC. 301. The Committee, any subcommittee thereof, and any officer or employee designated by any executive department or agency subject to this order may hold such hearings, public or private, as the Committee, department, or agency may deem advisable for compliance, enforcement, or educational purposes.

SEC. 302. If any executive department or agency subject to this order concludes that any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) or any State or local public agency has violated any rule, regulation, or procedure issued or adopted pursuant to this order, or any nondiscrimination provision included in any agreement or contract pursuant to any such rule, regulation, or procedure, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation, and persuasion unless similar efforts made by another Federal department or agency have been unsuccessful. In conformity with rules, regulations, procedures, or policies issued or adopted by it pursuant to Section 203 hereof, a department or agency may take such action as may be appropriate under its governing laws, including, but not limited to, the following:

It may—

(a) cancel or terminate in whole or in part any agreement or contract with such person, firm, or State or local public agency providing for a loan, grant, contribution, or other Federal aid, or for the payment of a commission or fee;

(b) refrain from extending any further aid under any program administered by it and affected by this order until it is satisfied that the affected person, firm, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order, and any nondiscrimination provisions included in any agreement or contract;

(c) refuse to approve a lending institution or any other lender as a beneficiary under any program administered by it which is affected by this order or revoke such approval if previously given.

SEC. 303. In appropriate cases executive departments and agencies shall refer to the Attorney General violations of any rules, regulations, or procedures issued or adopted pursuant to this order, or violations of any nondiscrimination provisions included in any agreement or contract, for such civil or criminal action as he may deem appropriate. The Attorney General is authorized to furnish legal advice concerning this order to the Committee and to any department or agency requesting such advice.

SEC. 304. Any executive department or agency affected by this order may also invoke the sanctions provided in Section 302 where any person or firm, including a lender, has violated the rules, regulations, or procedures issued or adopted pursuant to this order, or the nondiscrimination provisions included in any agreement or contract, with respect to any program affected by this order administered by any other executive department or agency.

PART IV—ESTABLISHMENT OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

SEC. 401. There is hereby established the President's Committee on Equal Opportunity in Housing which shall be composed of the Secretary of the Treasury; the Secretary of Defense; the Attorney General; the Secretary of Agriculture; the Housing and Home Finance Administrator; the Administrator of Veterans Affairs; the Chairman of the Federal Home Loan Bank Board; a member of the staff of the Executive Office of the President to be assigned to the Committee by direction of the President, and such other members as the President shall from time to time appoint from the public. The member assigned by the President from the staff of the Executive Office shall serve as the Chairman and Executive Director of the Committee. Each department or agency head may designate an alternate to represent him in his absence.

SEC. 402. Each department or agency subject to this order shall, to the extent authorized by law (including § 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691) furnish assistance to and defray the necessary expenses of the Committee.

PART V—POWERS AND DUTIES OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

SEC. 501. The Committee shall meet upon the call of the Chairman and at such other times as may be provided by its rules. It shall: (a) adopt rules to govern its deliberations and activities; (b) recommend general policies and procedures to implement this order; (c) consider reports as to progress under this order; (d) consider any matters which may be presented to it by any of its members; and (e) make such reports to the President as he may require or the Committee shall deem appropriate. A report to the President shall be made at least once annually and shall include references to the actions taken and results achieved by departments and agencies subject to this order. The Committee may provide for the establishment of subcommittees whose members shall be appointed by the Chairman.

SEC. 502. (a) The Committee shall take such steps as it deems necessary and appropriate to promote the coordination of the activities of departments and agencies under this order. In so doing, the Committee shall consider the overall objectives of Federal legislation relating to housing and the right of every individual to participate without discrimination because of race, color, creed, or national origin in the ultimate benefits of the Federal programs subject to this order.

(b) The Committee may confer with representatives of any department or agency, State or local public agency, civic, industry, or labor group, or any other group directly or indirectly affected by this order; examine the relevant rules, regulations, procedures, policies, and practices of any department or agency subject to this order and make such recommendations as may be necessary or desirable to achieve the purposes of this order.

(c) The Committee shall encourage educational programs by civic, educational, religious, industry, labor, and other nongovernmental groups to eliminate the basic causes of discrimination in housing and related facilities provided with Federal assistance.

SEC. 503. The Committee shall have an executive committee consisting of the Committee's Chairman and two other members designated by him from among the public members. The Chairman of the Committee shall also

serve as Chairman of the Executive Committee. Between meetings of the Committee, the Executive Committee shall be primarily responsible for carrying out the functions of the Committee and may act for the Committee to the extent authorized by it.

PART VI—MISCELLANEOUS

SEC. 601. As used in this order, the term "departments and agencies" includes any wholly-owned or mixed-ownership Government corporation, and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

SEC. 602. This order shall become effective immediately.

JOHN FITZGERALD KENNEDY

CROSS REFERENCE

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of this title.

§ 1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (R. S. § 1979.)

DERIVATION

Act Apr. 20, 1871, ch. 22, § 1, 17 Stat. 13.

§ 1984. Same; review of proceedings.

All cases arising under the provisions of this Act in the courts of the United States shall be reviewable by the Supreme Court of the United States, without regard to the sum in controversy, under the same provisions and regulations as are provided by law for the review of other causes in said court. (Mar. 1, 1875, ch. 114, § 5, 18 Stat. 337.)

REFERENCES IN TEXT

This act, referred to in the text, has reference to act Mar. 1, 1875. Sections 1 and 2 of said act Mar. 1, 1875 were not classified to this Code. Sections 3 and 4 of said act Mar. 1, 1875, formerly classified to sections 44 and 45 of Title 8, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and are now covered by sections 243 and 3231 of Title 18, Crimes and Criminal Procedure. Section 5 of act. Mar. 1, 1875 is classified to this section.

§ 1985. Conspiracy to interfere with civil rights.

(1) Preventing officer from performing duties.

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror.

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators. (R. S. § 1980.)

DERIVATION

Acts July 31, 1861, ch. 33, 12 Stat. 284; Apr. 20, 1871, ch. 22, § 2, 17 Stat. 13.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1986 of this title; title 28 section 1343.

§ 1986. Same; action for neglect to prevent.

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if

the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued. (R. S. § 1981.)

DERIVATION

Act Apr. 20, 1871, ch. 22, § 6, 17 Stat. 15.

§ 1987. Prosecution of violation of certain laws.

The United States attorneys, marshals, and deputy marshals, the commissioners appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506 to 5516 and 5518 to 5532 of the Revised Statutes, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense. (R. S. § 1982; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

DERIVATION

Acts Apr. 9, 1866, ch. 31, § 4, 14 Stat. 28; May 31, 1870, ch. 114, § 9, 16 Stat. 142.

REFERENCES IN TEXT

R. S. §§ 5506—5516 and 5518—5532, referred to in this section, which related to crimes against the elective franchise and civil rights of citizens, were all repealed by acts Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153, or Feb. 8, 1894, ch. 25, § 1, 28 Stat. 37. However, the provisions of sections 5508, 5510, 5516, 5518, and 5524—5532 were substantially reenacted by act Mar. 4, 1909, and were classified to former sections 51, 52, 54—59, 246, 428, and 443—445 of Title 18. Such sections of Title 18 were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and are now covered by sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure.

References to United States commissioners to be deemed references to United States magistrates, see Pub. L. 90-578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district, references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed, within such district, references to United States magistrates duly appointed under section 631 of Title 28 as soon as the first United States magistrate assumes office within that district or on Oct. 17, 1971, whichever is earlier. See Applicable Law note under section 631 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1989 of this title.

§ 1988. Proceedings in vindication of civil rights.

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. (R. S. § 722.)

DERIVATION

Acts Apr. 9, 1866, ch. 31, § 3, 14 Stat. 27; May 31, 1870, ch. 114, § 18, 16 Stat. 144.

REFERENCES IN TEXT

In the original "this chapter and Title 18" reads "this title and of title 'Civil Rights', and of title 'Crimes'," meaning titles XIII, XXIV, and LXX of the Revised Statutes.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 69 on this section, see note by Advisory Committee under said Rule, Title 28, Appendix, Judiciary and Judicial Procedure.

Execution, see Rule 69.

FEDERAL RULES OF CRIMINAL PROCEDURE

Scope and application, see Rules 1 and 54, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1989. Commissioners; appointment of persons to execute warrants

The district courts of the United States and the district courts of the Territories, from time to time, shall increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with the crimes referred to in section 1987 of this title; and such commissioners are authorized and required to exercise all the powers and duties conferred on them herein with regard to such offenses in like manner as they are authorized by law to exercise with regard to other offenses against the laws of the United States. Said commissioners are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the commissioners may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued. (R. S. §§ 1983, 1984; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

DERIVATION

Acts Apr. 9, 1866, ch. 31, §§ 4, 5, 14 Stat. 28; May 31, 1870, ch. 114, §§ 9, 10, 16 Stat. 142.

CHANGE OF NAME

Act Mar. 3, 1911 changed "circuit courts" to "district courts".

References to United States commissioners to be deemed references to United States magistrates, see

Pub. L. 90–578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district, references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed, within such district, references to United States magistrates duly appointed under section 631 of Title 28 as soon as the first United States magistrate assumes office within that district or on Oct. 17, 1971, whichever is earlier. See Applicable Law note under section 631 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1990, 1991 of this title.

§ 1990. Marshal to obey precepts; refusing to receive or execute process.

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions of section 1989 of this title. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of this section, or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of $1,000, for the benefit of the party aggrieved thereby. (R. S. §§ 1985, 5517.)

DERIVATION

R. S. § 1985 from acts Apr. 9, 1866, ch. 31, § 5, 14 Stat. 28; May 31, 1870, ch. 114, § 10, 16 Stat. 142.

R. S. § 5517 from act May 31, 1870, ch. 114, § 10, 16 Stat. 142.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1987, 1992 of this title.

§ 1991. Fees; persons appointed to execute process.

Every person appointed to execute process under section 1989 of this title shall be entitled to a fee of $5 for each party he may arrest and take before any commissioner, with such other fees as may be deemed reasonable by the commissioner for any additional services necessarily performed by him, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of the commissioner; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction. (R. S. § 1987.)

DERIVATION

Acts Apr. 9, 1866, ch. 31, § 7, 14 Stat. 29; May 31, 1870, ch. 114, § 12, 16 Stat. 143.

CHANGE OF NAME

References to United States commissioners to be deemed references to United States magistrates, see Pub. L. 90–578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district, references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed, within such district, references to United States magistrates duly appointed under section 631 of Title 28 as soon as the first United States magistrate assumes office within that district or on Oct. 17, 1971, whichever is earlier. See Applicable Law note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 1992. Speedy trial.

Whenever the President has reason to believe that offenses have been, or are likely to be committed against the provisions of section 1990 of this title or of section 5506 to 5516 and 5518 to 5532 of the Revised Statutes, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and United States attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons so charged, and it shall be the duty of every judge or other officer, when any such requisition is received by him to attend at the place and for the time therein designated. (R. S. § 1988; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

DERIVATION

Act Apr. 9, 1866, ch. 31, § 8, 14 Stat. 29.

REFERENCES IN TEXT

R. S. §§ 5506—5516 and 5518—5532, referred to in this section, which related to crime against the elective franchise and civil rights of citizens, were all repealed by acts Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153, or Feb. 8, 1894, ch. 25, § 1, 28 Stat. 37. However, the provisions of sections 5508, 5510, 5516, 5518, and 5524—5532 were substantially reenacted by act Mar. 4, 1909, and were classified to former sections 51, 52, 54—59, 246, 428, and 443—445 of Title 18. Such sections of Title 18 were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and are now covered by sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure.

§ 1993. Repealed. Pub. L. 85–315, pt. III, § 122, Sept. 9, 1957, 71 Stat. 637.

Section, R. S. § 1989, authorized the President to employ land or naval forces to aid in the execution of judicial process issued under sections 1981—1983 or 1985—1992 of this title, or to prevent the violation and enforce the due execution of sections 1981—1983 and 1985—1994 of this title. See section 332 of Title 10, Armed Forces.

§ 1994. Peonage abolished.

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in any Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of any Territory or State, which have heretofore established, maintained, or enforced, or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void. (R. S. § 1990.)

DERIVATION

Act Mar. 2, 1867, ch. 187, § 1, 14 Stat. 546.

§ 1995. Criminal contempt proceedings; penalties; trial by jury.

In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in

any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of $300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court.

Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention. (Pub. L. 85–315, pt. V, § 151, Sept. 9, 1957, 71 Stat. 638.)

REFERENCES IN TEXT

This Act, referred to in the text, means Pub. L. 85–315, which is classified to this section and sections 1971 and 1957 to 1975e of this title, former section 295–1 of Title 5, and sections 1343 and 1861 of Title 28.

CROSS REFERENCES

Jury trial of criminal contempts, see section 3691 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973*l* of this title.

SUBCHAPTER II.—PUBLIC ACCOMMODATIONS

§ 2000a. Prohibition against discrimination or segregation in places of public accommodation.

(a) Equal access.

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Establishments affecting interstate commerce or supported in their activities by State action as places of public accommodation; lodgings; facilities principally engaged in selling food for consumption on the premises; gasoline stations; places of exhibition or entertainment; other covered establishments.

Each of the following establishments which serves the public is a place of public accommodation within the meaning of this subchapter if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A) (i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) Operations affecting commerce; criteria; "commerce" defined.

The operations of an establishment affect commerce within the meaning of this subchapter if (1) it is one of the establishments described in paragraph (1) of subsection (b) of this section; (2) in the case of an establishment described in paragraph (2) of subsection (b) of this section, it serves or offers to serve interstate travelers of a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b) of this section, it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b) of this section, it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Support by State action.

Discrimination or segregation by an establishment is supported by State action within the meaning of this subchapter if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) Private establishments.

The provisions of this subchapter shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b) of this section. (Pub. L. 88–352, title II, § 201, July 2, 1964, 78 Stat. 243.)

SHORT TITLE

Section 1 of Pub. L. 88-352 provided: "That this Act [which enacted subchapters II—IX of this chapter, amended former sections 2204 and 2205 of Title 5, section 1447(d) of Title 28, and sections 1971 and 1975a—1975d of this title, and enacted provisions set out as a note under section 2000e of this title] may be cited as the 'Civil Rights Act of 1964'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-2 of this title.

§ 2000a-1. Prohibition against discrimination or segregation required by any law, statute, ordinance, regulation, rule or order of a State or State agency.

All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof. (Pub. L. 88-352, title II, § 202, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-2 of this title.

§ 2000a-2. Prohibition against deprivation of, interference with, and punishment for exercising rights and privileges secured by section 2000a or 2000a-1 of this title.

No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive any person of any right or privilege secured by section 2000a or 2000a-1 of this title, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 2000a or 2000a-1 of this title, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 2000a or 2000a-1 of this title. (Pub. L. 88-352, title II, § 203, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-3 of this title.

§ 2000a-3. Civil actions for injunctive relief.

(a) Persons aggrieved; intervention by Attorney General; legal representation; commencement of action without payment of fees, costs, or security.

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2000a-2 of this title, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) Attorney's fees; liability of United States for costs.

In any action commenced pursuant to this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) State or local enforcement proceedings; notification of State or local authority; stay of Federal proceedings.

In the case of an alleged act or practice prohibited by this subchapter which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) of this section before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) References to Community Relations Service to obtain voluntary compliance; duration of reference; extension of period.

In the case of an alleged act or practice prohibited by this subchapter which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting such act or practice, a civil action may be brought under subsection (a) of this section: *Provided,* That the court may refer the matter to the Community Relations Service established by subchapter VIII of this chapter for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: *Provided further,* That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance. (Pub. L. 88-352, title II, § 204, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000a-4 of this title.

§ 2000a-4. Community Relations Service; investigations and hearings; executive session; release of testimony; duty to bring about voluntary settlements.

The Service is authorized to make a full investigation of any complaint referred to it by the court under section 2000a-3(d) of this title and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties. (Pub. L. 88-352, title II, § 205, July 2, 1964, 78 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000g-3 of this title.

§ 2000a-5. Civil actions by the Attorney General.

(a) Complaint.

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action.

In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. (Pub. L. 88-352, title II, § 206, July 2, 1964, 78 Stat. 245.)

§ 2000a-6. Jurisdiction; exhaustion of other remedies; exclusiveness of remedies; assertion of rights based on other Federal or State laws and pursuit of remedies for enforcement of such rights.

(a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subchapter and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this subchapter shall be the exclusive means of enforcing the rights based on this subchapter, but nothing in this subchapter shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this subchapter, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right. (Pub. L. 88-352, title II, § 207, July 2, 1964, 78 Stat. 245.)

SUBCHAPTER III.—PUBLIC FACILITIES

§ 2000b. Civil actions by the Attorney General.

(a) Complaint; certification; institution of civil action; relief requested; jurisdiction; impleading additional parties as defendants.

Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 2000c of this title, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings.

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are

unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property. (Pub. L. 88-352, title III, § 301, July 2, 1964, 78 Stat. 246.)

§ 2000b-1. Liability of United States for costs and attorney's fee.

In any action or proceeding under this subchapter the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person. (Pub. L. 88-352, title III, § 302, July 2, 1964, 78 Stat. 246.)

§ 2000b-2. Personal suits for relief against discrimination in public facilities.

Nothing in this subchapter shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this subchapter. (Pub. L. 88-352, title III, §303, July 2, 1964, 78 Stat. 246.)

§ 2000b-3. "Complaint" defined.

A complaint as used in this subchapter is a writing or document within the meaning of section 1001, Title 18. (Pub. L. 88-352, title III, § 304, July 2, 1964, 78 Stat. 246.)

SUBCHAPTER IV.—PUBLIC EDUCATION

§ 2000c. Definitions.

As used in this subchapter—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

(Pub. L. 88-352, title IV, § 401, July 2, 1964, 78 Stat. 246.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000b of this title.

§ 2000c-1. Survey and report of educational opportunities.

CODIFICATION

Section, Pub. L. 88-352, title IV, § 402, July 2, 1964, 1964, 78 Stat. 247, which authorized the Commissioner to conduct a survey and make a report to the President and the Congress within two years of July, 1964 concerning the availability of educational opportunities for minority group members, has been omitted as executed.

§ 2000c-2. Technical assistance in preparation, adoption, and implementation of plans for desegregation of public schools.

The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems. (Pub. L. 88-352, title IV, § 403, July 2, 1964, 78 Stat. 247.)

§ 2000c-3. Training institutes; stipends; travel allowances.

The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute. (Pub. L. 88-352, title IV, § 404, July 2, 1964, 78 Stat. 247.)

§ 2000c-4. Grants for inservice training in dealing with and for employment of specialists to advise in problems incident to desegregation; factors for consideration in making grants and fixing amounts, terms, and conditions.

(a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation;

and such other factors as he finds relevant. (Pub. L. 88-352, title IV, § 405, July 2, 1964, 78 Stat. 247.)

§ 2000c-5. Payments; adjustments; advances or reimbursement; installments.

Payments pursuant to a grant or contract under this subchapter may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. (Pub. L. 88-352, title IV, § 406, July 2, 1964, 78 Stat. 248.)

§ 2000c-6. Civil actions by the Attorney General.

(a) Complaint; certification; notice to school board or college authority; institution of civil action; relief requested; jurisdiction; transportation of pupils to achieve racial balance; judicial power to insure compliance with constitutional standards; impleading additional parties as defendants.

Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin,

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings.

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) "Parent" and "complaint" defined.

The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, Title 18. (Pub. L. 88-352, title IV, § 407, July 2, 1964, 78 Stat. 248.)

§ 2000c-7. Liability of United States for costs.

In any action or proceeding under this subchapter the United States shall be liable for costs the same as a private person. (Pub. L. 88-352, title IV, § 408, July 2, 1964, 78 Stat. 249.)

§ 2000c-8. Personal suits for relief against discrimination in public education.

Nothing in this subchapter shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education. (Pub. L. 88-352, title IV, § 409, July 2, 1964, 78 Stat. 249.)

§ 2000c-9. Classification and assignment.

Nothing in this subchapter shall prohibit classification and assignment for reasons other than race, color, religion, or national origin. (Pub. L. 88-352, title IV, § 410, July 2, 1964, 78 Stat. 249.)

SUBCHAPTER V.—FEDERALLY ASSISTED PROGRAMS

§ 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under Federally assisted programs on ground of race, color, or national origin.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Pub. L. 88-352, title VI, § 601, July 2, 1964, 78 Stat. 252.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000d-1 of this title; title 39 section 410.

§ 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to congressional committees; effective date of administrative action.

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report. (Pub. L. 88-352, title VI, § 602, July 2, 1964, 78 Stat. 252.)

EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT

Nondiscrimination in government employment and in employment by government contractors and subcontractors, see Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, and Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of this title.

EX. ORD. NO. 11247. COORDINATION OF ENFORCEMENT

Ex. Ord. No. 11247, Sept. 24, 1965. 30 F.R. 12327, provided:

WHEREAS the Departments and agencies of the Federal Government have adopted uniform and consistent regulations implementing Title VI of the Civil Rights Act of 1964 [sections 2000d to 2000d-4 of this title] and, in cooperation with the President's Council on Equal Opportunity, have embarked on a coordinated program of enforcement of the provisions of that Title;

WHEREAS the issues hereafter arising in connection with coordination of the activities of the departments and agencies under that Title will be predominantly legal in character and in many cases will be related to judicial enforcement; and

WHEREAS the Attorney General is the chief law officer of the Federal Government and is charged with the duty of enforcing the laws of the United States:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1. The Attorney General shall assist Federal departments and agencies to coordinate their programs and activities and adopt consistent and uniform policies, practices, and procedures with respect to the enforcement of Title VI of the Civil Rights Act of 1964. He may promulgate such rules and regulations as he shall deem necessary to carry out his functions under this Order.

SEC. 2. Each Federal department and agency shall cooperate with the Attorney General in the performance of his functions under this Order and shall furnish him such reports and information as he may request.

SEC. 3. Effective 30 days from the date of this Order, Executive Order No. 11197 of February 5, 1965, is revoked. Such records of the President's Council on Equal Opportunity as may pertain to the enforcement of Title VI of the Civil Rights Act of 1964 shall be transferred to the Attorney General.

SEC. 4. All rules, regulations, orders, instructions, designations and other directives issued by the President's Council on Equal Opportunity relating to the implementation of Title VI of the Civil Rights Act of 1964 shall remain in full force and effect unless and until revoked or superseded by directives of the Attorney General.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2000d-2, 2000d-5 of this title; title 39 section 410.

§ 2000d-2. Judicial review; Administrative Procedure Act.

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 1009 of Title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section. (Pub. L. 88-352, title VI, § 603, July 2, 1964, 78 Stat. 253.)

REFERENCES IN TEXT

Section 1009 of Title 5, referred to in the text, was repealed in the general revision of Title 5, and the provisions are now covered by sections 701-706 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is refererd to in title 39 section 410.

§ 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment.

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment. (Pub. L. 88-352, title VI, § 604, July 2, 1964, 78 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is refererd to in title 39 section 410.

§ 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty.

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty. (Pub. L. 88-352, title VI, § 605, July 2, 1964, 78 Stat. 253.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is refererd to in title 39 section 410.

§ 2000d-5. Prohibited deferral of action on applications by local educational agencies seeking federal funds for alleged noncompliance with Civil Rights Act.

The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of this subchapter for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 2000d-1 of this title, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of this subchapter: *Provided,* That, for the purpose of determining whether a local educational agency is in compliance with this subchapter, compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with this subchapter, insofar as the matters covered in the order or judgment are concerned. (Pub. L. 89-750, title I, § 182, Nov. 3, 1966, 80 Stat. 1209; Pub. L. 90-247, title I, § 112, Jan. 2, 1968, 81 Stat. 787.)

REFERENCES IN TEXT

"This Act", referred to in text, is the Elementary and Secondary Education Amendments of 1966, (Pub. L. 89-750. For classification of Pub. L. 89-750 see Short Title note under section 841 of Title 20, Education.

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, which enacted chapter 24 and sections 241a—241*l*, 331a, 322a, and 332b of Title 20, Education, and amended sections 236—241, 242—244, 331, and 332 of Title 20.

The Act of September 30, 1950 (Pub. L. 874, Eighty-first Congress), referred to in text, is classified to section 236 et seq. of Title 20, Education.

The Act of September 23, 1950 (Pub. L. 815, Eighty-first Congress), referred to in text, is classified to section 631 et seq. of Title 20, Education.

The Cooperative Research Act, referred to in text, is classified to section 331 et seq. of Title 20, Education.

CODIFICATION

Section was enacted as part of the Elementary and Secondary Education Amendments of 1966, Pub. L. 89-750, and not as part of the Civil Rights Act of 1964, Pub. L. 89-352, which enacted this subchapter.

AMENDMENTS

1968—Pub. L. 90-247 added the proviso to this section.

EFFECTIVE DATE

Section effective with respect to fiscal years beginning after June 30, 1966, see section 191 of Pub. L. 89-750, set out as a note under section 241b of Title 20, Education.

§ 2000d-6. Policy of United States as to application of nondiscrimination provisions in schools of local educational agencies.

(a) Declaration of uniform policy.

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Nature of uniformity.

Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Prohibition of construction for diminution of obligation for enforcement or compliance with nondiscrimination requirements.

Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to elmininate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

(d) Additional funds.

It is the sense of the Congress that the Department of Justice and the Department of Health, Education, and Welfare should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States. (Pub. L. 91-230, § 2, Apr. 13, 1970, 84 Stat. 121.)

REFERENCES IN TEXT

Title VI of the Civil Rights Act of 1964, referred to in subsecs. (a) and (c), is set out in sections 2000d to 2000d—4 of this title.

Section 182 of the Elementary and Secondary Education Amendments of 1966, referred to in subsec. (a), is classified to section 2000d—5 of this title.

CODIFICATION

Section was enacted as part of the Elementary and Secondary Amendments of 1969, Pub. L. 91-230, and not as part of the Civil Rights Act of 1964, Pub. L. 89-352, which enacted this subchapter.

SUBCHAPTER VI.—EQUAL EMPLOYMENT OPPORTUNITIES

§ 2000e. Definitions.

For the purposes of this subchapter—

(a) The term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian Tribe, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of Title 26: *Provided,* That during the first year after the effective date prescribed in subsection

(a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

(Pub. L. 88–352, title VII, § 701, July 2, 1964, 78 Stat. 253; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662.)

REFERENCES IN TEXT

The provision respecting effective date prescribed in subsection (a) of section 716, referred to in subsec. (b) and (e), is set out as a note under this section.

The National Labor Relations Act, as amended, referred to in subsec. (e)(1), is classified to sections 151—158 and 159—167 of Title 29, Labor.

The Railway Labor Act, as amended, referred to in subsec. (e)(1), is classified to chapter 8 of Title 45, Railroads.

The Labor-Management Reporting and Disclosure Act of 1959, referred to in subsec. (h), is classified to chapter 11 of Title 29.

The Outer Continental Shelf Lands Act, referred to in subsec. (i), is classified to sections 1331—1343 of Title 43, Public Lands.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–554 eliminated proviso which stated that it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin and directed the President to utilize his existing authority to effectuate this policy.

EFFECTIVE DATE

Subsecs. (a) and (b) of section 716 of Pub. L. 88–352 provided that:

"(a) This title [this section, sections 2000e–1, 2000e–4, 2000e–7 to 2000e–15 of this title, and amendments to former sections 2204 and 2205(a)(45) of Title 5 shall become effective one year after the date of its enactment [July 2, 1964].

"(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 [sections 2000e–2, 2000e–3, 2000e–5, and 2000e–6 of this title] shall become effective immediately [July 2, 1964]."

EX. ORD. NO. 11246. EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT

Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, as amended by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303; Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, provided:

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

PART I.—NONDISCRIMINATION IN GOVERNMENT EMPLOYMENT

[Superseded by Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985.]

PART II.—NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

SUBPART A.—DUTIES OF THE SECRETARY OF LABOR

SEC. 201. The Secretary of Labor shall be responsible for the administration of Parts II and III of this Order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof.

SUBPART B.—CONTRACTORS' AGREEMENTS

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Amendment of pars. (1) and (2) by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303, effective Oct. 13, 1968.]

SEC. 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided,* That to the extent such information is within the exclusive possession of a labor union or any agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require. [Amendment of subsec. (d) by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303, effective Oct. 13, 1968.]

SEC. 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided,* That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: *And provided further,* That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

SUBPART C.—POWERS AND DUTIES OF THE SECRETARY OF LABOR AND THE CONTRACTING AGENCIES

SEC. 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this Order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

SEC. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

SEC. 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 [sections 2000d to 2000d–4 of this title and this subchapter] or other provision of Federal law.

SEC. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

SUBPART D.—SANCTIONS AND PENALTIES

SEC. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964 [this subchapter].

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the nondiscrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a)(5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

SEC. 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

SEC. 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209(a)(6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

SUBPART E.—CERTIFICATES OF MERIT

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices, and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III.—NONDISCRIMINATION PROVISIONS IN FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

SEC. 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor; together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SEC. 302. (a) "Construction contract," as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SEC. 303. (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 [section 2000d-1 (b) of this title] (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: *Provided*, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 [sections 2000d to 2000d-4 of this title] shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof [section 2000d-1 of this title] and the regulations of the administering department or agency issued thereunder.

PART IV.—MISCELLANEOUS

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order, except authority to promulgate rules and regulations of a general nature.

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403. (a) Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Civil Service Commission and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and

effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

LYNDON B. JOHNSON.

EX. ORD. NO. 11478. EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, as amended by Ex. Ord. No. 11590, Apr. 23, 1971, 36 F.R. 7831, provided:

It has long been the policy of the United States Government to provide equal opportunity in Federal employment on the basis of merit and fitness and without discrimination because of race, color, religion, sex, or national origin. All recent Presidents have fully supported this policy, and have directed department and agency heads to adopt measures to make it a reality.

As a result, much has been accomplished through positive agency programs to assure equality of opportunity. Additional steps, however, are called for in order to strengthen and assure fully equal employment opportunity in the Federal Government.

NOW THEREFORE, under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

SECTION 1. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government.

SEC. 2. The head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the policy set forth in section 1. It is the responsibility of each department and agency head, to the maximum extent possible, to provide sufficient resources to administer such a program in a positive and effective manner; assure that recruitment activities reach all sources of job candidates; utilize to the fullest extent the present skills of each employee; provide the maximum feasible opportunity to employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities; provide training and advice to managers and supervisors to assure their understanding and implementation of the policy expressed in this Order; assure participation at the local level with other employers, schools, and public or private groups in cooperative efforts to improve community conditions which affect employability; and provide for a system within the department or agency for periodically evaluating the effectiveness with which the policy of this Order is being carried out.

SEC. 3. The Civil Service Commission shall provide leadership and guidance to departments and agencies in the conduct of equal employment opportunity programs for the civilian employees of and applicants for employment within the executive departments and agencies in order to assure that personnel operations in Government departments and agencies carry out the objective of equal opportunity for all persons. The Commission shall review and evaluate agency program operations periodically, obtain such reports from departments and agencies as it deems necessary, and report to the President as appropriate on overall progress. The Commission will consult from time to time with such individuals, groups, or organizations as may be of assistance in improving the Federal program and realizing the objectives of this Order.

SEC. 4. The Civil Service Commission shall provide for the prompt, fair, and impartial consideration of all complaints of discrimination in Federal employment on the basis of race, color, religion, sex, or national origin. Agency systems shall provide access to counseling for employees who feel aggrieved and shall encourage the resolution of employee problems on an informal basis. Procedures for the consideration of complaints shall include at least one impartial review within the executive department or agency and shall provide for appeal to the Civil Service Commission.

SEC. 5. The Civil Service Commission shall issue such regulations, orders, and instructions as it deems necessary and appropriate to carry out this Order and assure that the executive branch of the Government leads the way as an equal opportunity employer, and the head of each executive department and agency shall comply with the regulations, orders, and instructions issued by the Commission under this Order.

SEC. 6. This Order applies (a) to military departments as defined in section 102 of title 5, United States Code, and executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and to the employees thereof (including employees paid from nonappropriated funds), and (b) to those portions of the legislative and judicial branches of the Federal Government and of the Government of the District of Columbia having positions in the competitive service and to the employees in those positions. This Order does not apply to aliens employed outside the limits of the United States.

SEC. 7. Part I of Executive Order No. 11246 of September 24, 1965, and those parts of Executive Order No. 11375 of October 13, 1967, which apply to Federal employment, are hereby superseded.

SEC. 8. This Order shall be applicable to the United States Postal Service and to the Postal Rate Commission established by the Postal Reorganization Act of 1970 [Title 39, Postal Service].

RICHARD NIXON

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 753, 757b, 757c-3, 766, 771 of this title.

§ 2000e-1. Subchapter not applicable to employment of aliens outside State and individuals for performance of religious and educational activities of religious corporations, associations, or societies and educational institutions.

This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution. (Pub. L. 88-352, title VII, § 702, July 2, 1964, 78 Stat. 255.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88-352, set out as a note under section 2000e of this title.

§ 2000e-2. Unlawful employment practices.

(a) Employer practices.

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment,

because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices.

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Labor organization practices.

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs.

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion.

Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Members of Communist Party or Communist-action or Communist-front organizations.

As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) National security.

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Seniority or merit system; quantity or quality of production; ability tests; compensation based on sex and authorized by minimum wage provisions.

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not

designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of Title 29.

(i) Businesses or enterprises extending preferential treatment to Indians.

Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance.

Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number of percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area. (Pub. L. 88-352, title VII, § 703, July 2, 1964, 78 Stat. 255.)

REFERENCES IN TEXT

The Subversive Activities Control Act of 1950, referred to in subsec. (f), is classified principally to subchapter I of chapter 23 of Title 50, War and National Defense.

EFFECTIVE DATE

Section effective one year after July 2, 1964, see section 716(a) of Pub. L. 88-352, set out as a note under section 2000e of this title.

§ 2000e-3. Other unlawful employment practices.

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings.

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual; or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(b) Printing or publication of notices or advertisements indicating prohibited preference, limitation, specification, or discrimination; occupational qualification exception.

It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment. (Pub. L. 88-352, title VII, § 704, July 2, 1964, 78 Stat. 257.)

EFFECTIVE DATE

Section effective one year after July 2, 1964, see section 716(a) of Pub. L. 88-352, set out as a note under section 2000e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-5 of this title.

§ 2000e-4. Equal Employment Opportunity Commission.

(a) Creation; political representation; appointment; term; vacancies; Chairman, duties; Vice Chairman, Acting Chairman; personnel.

There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from July 2, 1964, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of Title 5. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) Exercise of powers during vacancy; quorum.

A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) Seal; judicial notice.

The Commission shall have an official seal which shall be judicially noticed.

(d) Reports to Congress and the President.

The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Principal and other offices.

The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necesary to accomplish the purpose of this subchapter.

(f) Powers of Commission.

The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this subchapter such technical assistance as they may request to further their compliance with this subchapter or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this subchapter, to assist in such effectuation by conciliation or such other remedial action as is provided by this subchapter;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this subchapter and to make the results of such studies available to the public;

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 2000e-5 of this title, or for the institution of a civil action by the Attorney General under section 2000e-6 of this title, and to advise, consult, and assist the Attorney General on such matters.

(g) Legal representation.

Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(h) Cooperation with other departments and agencies in performance of educational or promotional activities.

The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(i) Personnel subject to section 118i of Title 5.

All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 118i of Title 5, notwithstanding any exemption contained in such section. (Pub. L. 88-352, title VII, § 705 (a)—(d), (f)—(j), July 2, 1964, 78 Stat. 258, 259.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

Section 1181 of Title 5, referred to in subsec. (i), was repealed in the general revision of Title 5, and is now covered by sections 130, 7321, 7325 and 7327 of Title 5.

CODIFICATION

Section is comprised of subsecs. (a)—(d) and (f)—(j) of section 705 of Pub. L. 88-352, which constitute subsecs. (a)—(d) and (e)—(i) of this section, respectively. Subsec. (e) of section 705 added clause (32) to former section 2204 and members of Equal Employment Opportunity Commission to subsec. (a) of former section 2205 of Title 5.

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88-352, set out as a note under section 2000e of this title.

CROSS REFERENCES

Per diem and mileage of witnesses, see chapter 119 of Title 28, Judiciary and Judicial Procedure.

§ 2000e-5. Enforcement provisions.

(a) Charges by persons aggrieved or member of Commission; copy of charges to respondents; investigation of charges; conference, conciliation, and persuasion for elimination of unlawful practices; prohibited disclosures; use of evidence in subsequent proceedings; penalties.

Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this subchapter has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) State or local enforcement proceedings; notification of State or local authority; time for filing charges with Commission; commencement of proceedings.

In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and

establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) of this section by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(c) Same; notification of State or local authority; time for action on charges by Commission.

In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(d) Time for filing charges after occurrence of unlawful practices or termination of State or local enforcement proceedings; filing of charges by Commission with State or local agency.

A charge under subsection (a) of this section shall be filed within ninety days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b) of this section, such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(e) Civil actions for prevention of unlawful practices; legal representation; commencement of action without payment of fees, costs, or security; intervention by Attorney General; stay of Federal proceedings.

If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) of this section (except that in either case such period may be extended to not more than sixty days upon a determination by the Commission that further efforts to secure voluntary compliance are warranted), the Commission has been unable to obtain voluntary compliance with this subchapter, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) of this section or the efforts of the Commission to obtain voluntary compliance.

(f) Jurisdiction and venue of United States courts.

Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of Title 28, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(g) Injunctions; appropriate affirmative action; reinstatement, hiring, back pay; reduction of back pay by interim earnings or amount earnable; limitations on judicial orders.

If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion

of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex or national origin or in violation of section 2000e-3(a) of this title.

(h) Provisions of sections 101 to 115 of Title 29 not applicable to civil actions for prevention of unlawful practices.

The provisions of sections 101 to 115 of Title 29 shall not apply with respect to civil actions brought under this section.

(i) Proceedings by Commission to compel compliance with judicial orders.

In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (e) of this section, the Commission may commence proceedings to compel compliance with such order.

(j) Appeals.

Any civil action brought under subsection (e) of this section and any proceedings brought under subsection (i) of this section shall be subject to appeal as provided in sections 1291 and 1292, Title 28.

(k) Attorney's fee; liability of Commission and United States for costs.

In any action or proceeding under this subchapter the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person. (Pub. L. 88-352, title VII, § 706, July 2, 1964, 78 Stat. 259.)

REFERENCES IN TEXT

Sections 111 and 112, included within the reference to sections 101—115 of Title 29 in subsec. (h), were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are now covered by section 3692 of Title 18, Crimes and Criminal Procedure and Federal Rules of Criminal Procedure rule 42, 18 U.S.C., respectively.

EFFECTIVE DATE

Section effective one year after July 2, 1964, see section 716(a) of Pub. L. 88-352, set out as a note under section 2000e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2000e-4, 2000e-8, 2000e-9 of this title.

§ 2000e-6. Civil actions by the Attorney General.

(a) Complaint.

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Jurisdiction; three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action.

This district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. (Pub. L. 88-352, title VII, § 707, July 2, 1964, 78 Stat. 261.)

EFFECTIVE DATE

Section effective one year after July 2, 1964, see section 716(a)(b) of Pub. L. 88-352, set out as a note under section 2000e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-4 of this title.

§ 2000e-7. Effect on State laws.

Nothing in this subchapter shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or

future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this subchapter. (Pub. L. 88–352, title VII, § 708, July 2, 1964, 78 Stat. 262.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88–352, set out as a note under section 2000e of this title.

§ 2000e–8. Investigations.

(a) Examination and copying of evidence related to unlawful employment practices.

In connection with any investigation of a charge filed under section 2000e–5 of this title, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this subchapter and is relevant to the charge under investigation.

(b) Cooperation with State and local agencies administering State fair employment practices laws; utilization of services; reimbursement; agreements and rescission of agreements.

The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this subchapter and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this subchapter. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 2000e–5 of this title in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this subchapter.

(c) Execution, retention, and preservation of records; reports to Commission; training program records; appropriate relief from regulation or order for undue hardship.

Except as provided in subsection (d) of this section, every employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this subchapter or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this subchapter which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this subchapter, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

(d) Records under State fair employment practice laws; notations to reflect differences in coverage or enforcement between State and Federal law; reports to Federal agencies under executive orders as dispensing with reports to Commission.

The provisions of subsection (c) of this section shall not apply to any employer, employment agency, labor organization, or joint labor-management committee with respect to matters occurring in any State or political subdivision thereof which has a fair employment practice law during any period in which such employer, employment agency, labor organization, or joint labor-management committee is subject to such law, except that the Commission may require such notations on records which such employer, employment agency, labor organization, or joint labor-management committee keeps or is required to keep as are necessary because of differences in coverage or methods of enforcement between the State or local law and the provisions of this subchapter. Where an employer is required by Executive Order 10925, issued March 6, 1961, or by any other Executive order prescribing fair employment practices for Government contractors and subcontractors, or by rules or regulations issued thereunder, to file reports relating to his employment practices with any Federal agency or committee, and he is substantially in compliance with such requirements, the Commission shall not require him to file additional reports pursuant to subsection (c) of this section.

(e) Prohibited disclosures; penalties.

It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section

prior to the institution of any proceeding under this subchapter involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year. (Pub. L. 88-352, title VII, § 709, July 2, 1964, 78 Stat. 262.)

REFERENCES IN TEXT

Ex. Ord. No. 10925, Mar. 7, 1961, 26 F.R. 1977, as amended by Ex. Ord. No. 11114, June 24, 1963, 28 F.R. 6485; Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, referred to in subsec. (d), and which established the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, as amended, set out as a note under section 2000e of this title.

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88-352, set out as a note under section 2000e of the title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000e-9 of this title.

§ 2000e-9. Investigatory powers.

(a) Examination of witnesses; production of evidence.

For the purposes of any investigation of a charge filed under the authority contained in section 2000e-5 of this title, the Commission shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation.

(b) Jurisdiction for issuance of compliance orders; attendance of witnesses or production of evidence out of State.

If the respondent named in a charge filed under section 2000e-5 of this title fails or refuses to comply with a demand of the Commission for permission to examine or to copy evidence in conformity with the provisions of section 2000e-8(a) of this title, or if any person required to comply with the provisions of section 2000e-8 (c) or (d) of this title fails or refuses to do so, or if any person fails or refuses to comply with a demand by the Commission to give testimony under oath, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply with the provisions of section 2000e-8 (c) or (d) of this title or to comply with the demand of the Commission, but the attendance of a witness may not be required outside the State where he is found, resides, or transacts business and the production of evidence may not be required outside the State where such evidence is kept.

(c) Petition for order to modify or set aside demand; specification of grounds; waiver of objections.

Within twenty days after the service upon any person charged under section 2000e-5 of this title of a demand by the Commission for the production of documentary evidence or for permission to examine or to copy evidence in conformity with the provisions of section 2000e-8(a) of this title, such person may file in the district court of the United States for the judicial district in which he resides, is found, or transacts business, and serve upon the Commission a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this subchapter or with the limitations generally applicable to compulsory process or upon any constitutional or other legal right or privilege of such person. No objection which is not raised by such a petition may be urged in the defense to a proceeding initiated by the Commission under subsection (b) of this section for enforcement of such a demand unless such proceeding is commenced by the Commission prior to the expiration of the twenty-day period, or unless the court determines that the defendant could not reasonably have been aware of the availability of such ground of objection.

(d) Petition, in proceedings by Commission, for order to modify or set aside demand.

In any proceeding brought by the Commission under subsection (b) of this section, except as provided in subsection (c) of this section, the defendant may petition the court for an order modifying or setting aside the demand of the Commission. (Pub. L. 88-352, title VII, § 710, July 2, 1964, 78 Stat. 264.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88-352, set out as a note under section 2000e of this title.

§ 2000e-10. Posting of notices; penalties.

(a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from or, summaries of, the pertinent provisions of this subchapter and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense. (Pub. L. 88-352, title VII, § 711, July 2, 1964, 78 Stat. 265.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88-352, set out as a note under section 2000e of this title.

§ 2000e-11. Veterans' special rights or preference.

Nothing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans. (Pub. L. 88-352, title VII, § 712, July 2, 1964, 78 Stat. 265.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88-352, set out as a note under section 2000e of this title.

§ 2000e–12. Regulations; conformity of regulations with Administrative Procedure Act; reliance on interpretations and instructions of Commission.

(a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this subchapter. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this subchapter if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this subchapter regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this subchapter. (Pub. L. 88–352, title VII, § 713, July 2, 1964, 78 Stat. 265.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in subsec. (a), was repealed in the general revision of Title 5, and the provisions are now covered by sections 551 et seq. and 701 et seq. of Title 5, Government Organizations and Employees.

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88–352, set out as a note under section 2000e of this title.

§ 2000e–13. Application to personnel of section 111 of Title 18.

The provisions of section 111, Title 18, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. (Pub. L. 88–352, title VII, § 714, July 2, 1964, 78 Stat. 265.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88–352, set out as a note under section 2000e of this title.

§ 2000e–14. Special study by Secretary of Labor; report to Congress.

CODIFICATION

Section, Pub.L. 83–352, title VII, § 715, July 2, 1964, 78 Stat. 265, which directed the Secretary of Labor to make a report to the Congress not later than June 30, 1965 concerning discrimination in employment because of age with recommendations for legislation to prevent such discrimination, has been omitted as executed.

SUBMISSION OF SPECIFIC LEGISLATIVE RECOMMENDATIONS TO CONGRESS BY JANUARY 1, 1967, TO IMPLEMENT REPORT ON AGE DISCRIMINATION.

Pub.L. 89–601, title VI, § 606, Sept. 23, 1966, 80 Stat. 845, directed the Secretary of Labor to submit to the Congress not later than January 1, 1967 his specific legislative recommendations for implementing the conclusions and recommendations contained in his report on age discrimination in employment made pursuant to former section 2000e–14 of this title.

§ 2000e–15. Presidential conferences; acquaintance of leadership with provisions for employment rights and obligations; plans for fair administration; membership.

The President shall, as soon as feasible after July 2, 1964, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this subchapter to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this subchapter when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this subchapter. (Pub. L. 88–352, title VII, § 716(c), July 2, 1964, 78 Stat. 266.)

EFFECTIVE DATE

Section effective July 2, 1964, see section 716(b) of Pub. L. 88–352, set out as a note under section 2000e of this title.

EXECUTIVE ORDER No. 11197

Ex. Ord. No. 11197, Feb. 5, 1965, 30 F.R. 1721, formerly set out as a note under this section, which established the President's Council on Equal Opportunity, was revoked by Ex. Ord. No. 11247, Sept. 24, 1965, 30 F.R. 12327, set out as a note under section 2000d–1 of this title.

SUBCHAPTER VII.—REGISTRATION AND VOTING STATISTICS

§ 2000f. Survey for compilation of registration and voting statistics; geographical areas; scope; application of census provisions; voluntary disclosure; advising of right not to furnish information.

The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of Title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this subchapter: *Provided, however,* That no person shall be compelled to disclose his race, color,

national origin, or questioned about his political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information. (Pub. L. 88-352, title VIII, § 801, July 2, 1964, 78 Stat. 266.)

SUBCHAPTER VIII.—COMMUNITY RELATIONS SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2000a-3 of this title.

§ 2000g. Establishment of Service; Director of Service: appointment, term; personnel; experts and consultants.

There is hereby established in and as a part of the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of Title 5. The Director is further authorized to procure services as authorized by section 55a of Title 5, but at rates for individuals not in excess of $75 per diem. (Pub. L. 88-352, title X, § 1001(a), July 2, 1964, 78 Stat. 267.)

REFERENCES IN TEXT

The civil service laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

Section 55a of Title 5, referred to in the text, was repealed in the general revision of Title 5, and the provisions are now covered by section 3109 of Title 5.

REORGANIZATION PLAN NO. 1 OF 1966

Eff. Apr 22, 1966, 31 F.R. 6187, 80 Stat. 1607.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 10, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of Title 5, Government Organization and Employees.]

COMMUNITY RELATIONS SERVICE

SECTION 1. TRANSFER OF SERVICE

Subject to the provisions of this reorganization plan, the Community Relations Service now existing in the Department of Commerce under the Civil Rights Act of 1964 (Pub. L. No. 88-352, July 2, 1964) [see Short Title note under section 2000a of this title], including the office of Director there of, is hereby transferred to the Department of Justice.

SEC. 2. TRANSFER OF FUNCTIONS

All functions of the Community Relations Service, and all functions of the Director of the Community Relations Service, together wtih all functions of the Secretary of Commerce and the Department of Commerce with respect thereto, are hereby transferred to the Attorney General.

SEC. 3. INCIDENTAL TRANSFERS

(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget [now Office of Management and Budget] shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their enforcement activities with respect to title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964, to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Acts of 1957, 1960, and 1964, and the Voting Rights Act of 1965. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and

explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964, which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major Government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one department. Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each organization included in Reorganization Plan No. 1 of 1966 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 10, 1966.

§ 2000g-1. Functions of Service.

It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person. (Pub. L. 88-352, title X, § 1002, July 2, 1964, 78 Stat. 267.)

§ 2000g-2. Cooperation with other agencies; conciliation assistance in confidence and without publicity; information as confidential; restriction on performance of investigative or prosecuting functions; violations and penalties.

(a) The Service shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate State or local, public, or private agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year. (Pub. L. 88-352, title X, § 1003, July 2, 1964, 78 Stat. 267.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2000g-3 of this title.

§ 2000g-3. Reports to Congress.

Subject to the provisions of sections 2000a-4 and 2000g-2(b) of this title, the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year. (Pub. L. 88-352, title X, § 1004, July 2, 1964, 78 Stat. 267.)

SUBCHAPTER IX.—MISCELLANEOUS PROVISIONS

§ 2000h. Criminal contempt proceedings: trial by jury, criminal practice, penalties, exceptions, intent; civil contempt proceedings.

In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the

accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court. No person shall be convicted of criminal contempt hereunder unless the act or omission constituting such contempt shall have been intentional, as required in other cases of criminal contempt.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention. (Pub. L. 88-352, title XI, § 1101, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

Title II, III, IV, V, VI, or VII of this Act, referred to in the text, refer to such titles of the Civil Rights Act of 1964, Pub. L. 88-352. Such titles are distributed in the Code as follows:

Titles II-IV, subchapters II-IV of this chapter;
Title V, sections 1975a-1975d of this title;
Title VI, subchapter V of this chapter;
Title VII, subchapter VI of this chapter and former sections 2204(32) and 2205(a)(45) of Title 5.

§ 2000h-1. Double jeopardy; specific crimes and criminal contempts.

No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission. (Pub. L. 88-352, title XI, § 1102, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in the text, means the Civil Rights Act of 1964, Pub. L. 88-352. For distribution of such Act in the Code, see Short Title note under section 2000a of this title.

§ 2000h-2. Intervention by Attorney General; denial of equal protection on account of race, color, religion, or national origin.

Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action. (Pub. L. 88-352, title IX, § 902, July 2, 1964, 78 Stat. 266.)

§ 2000h-3. Construction of provisions not to affect authority of Attorney General, etc., to institute or intervene in actions or proceedings.

Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding. (Pub. L. 88-352, title XI, § 1103, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in the text, means the Civil Rights Act of 1964, Pub. L. 88-352. For distribution of such Act in the Code, see Short Title note under section 2000a of this title.

§ 2000h-4. Construction of provisions not to exclude operation of State laws and not to invalidate consistent State laws.

Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof. (Pub. L. 88-352, title XI, § 1104, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

Any title of this Act, such title, and this Act, referred to in the text, refer to Titles I—XI of the Civil Rights Act of 1964, Pub. L. 88-352. Such Titles and such Act are distributed in the Code as follows:

Title I, section 1971 of this title;
Titles II—IV, subchapters II—IV of this chapter;
Title V, sections 1975a—1975d of this title;
Title VI, subchapter V of this chapter;
Title VII, subchapter VI of this chapter and former sections 2204(32) and 2205(a)(45) of Title 5;
Title VIII, subchapter VII of this chapter;
Title IX, section 2000h-2 of this title and section 1447(d) of Title 28;
Title X, subchapter VIII of this chapter and former section 2205(a)(52) of Title 5;
Title XI, subchapter IX of this chapter, except section 2000h-2 of this title.

§ 2000h-5. Appropriations.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act. (Pub. L. 88-352, title XI, § 1105, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act, referred to in the text, means the Civil Rights Act of 1964, Pub. L. 88-352. For distribution of such Act in the Code, see Short Title note under section 2000a of this title.

§ 2000h-6. Separability of provisions.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Pub. L. 88-352, title XI, § 1106, July 2, 1964, 78 Stat. 268.)

REFERENCES IN TEXT

This Act and the Act, referred to in the text, means the Civil Rights Act of 1964, Pub. L. 88-352. For distribution of such Act in the Code, see Short Title note under section 2000a of this title.

Chapter 22.—INDIAN HOSPITALS AND HEALTH FACILITIES

Sec.
2001. Hospitals and health facilities transferred to Public Health Service; restriction on closing hospitals.
2002. Transfer of hospitals and facilities to State or private institutions; conditions and restrictions; failure to meet requirements.
2003. Regulations.
2004. Transfer of personnel, property, records, monies.
2004a. Sanitation facilities.
(a) Powers of Surgeon General.
(b) Transfer and reversion of lands.
(c) Project consultation and participation.
2005. Construction of health facilities; financial assistance by Surgeon General.
2005a. Same; amount of assistance; determination of costs.
2005b. Same; conditions of assistance.
2005c. Same; payments.
2005d. Same; eligibility of assisted project for aid under other acts; excluded costs.
2005e. Same; definitions.
2005f. Same; supervision or control of assisted hospitals.

§ 2001. Hospitals and health facilities transferred to Public Health Service; restriction on closing hospitals.

All functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the health of Indians, are transferred to, and shall be administered by, the Surgeon General of the United States Public Health Service, under the supervision and direction of the Secretary of Health, Education, and Welfare: *Provided,* That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council. (Aug. 5, 1954, ch. 658, § 1, 68 Stat. 674.)

EFFECTIVE DATE

Section 6 of act Aug. 5, 1954, as amended by Pub. L. 86-121, § 2, July 31, 1959, 73 Stat. 268, provided that: "Sections 1 to 5, inclusive, of this Act [enacting sections 2001-2004 of this title and repealing sections 444-449 of Title 25, Indians] shall take effect July 1, 1959."

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2005 of this title.

§ 2002. Transfer of hospitals and facilities to State or private institutions; conditions and restrictions; failure to meet requirements.

Whenever the health needs of the Indians can be better met thereby, the Secretary of Health, Education, and Welfare is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health, Education, and Welfare to a non-Indian entity or organization under this chapter unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided,* That if, following such transfer by the United States Public Health Service, the Secretary of Health, Education, and Welfare finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health, Education, and Welfare shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility. (Aug. 5, 1954, ch. 658, § 2, 68 Stat. 674.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2005 of this title.

§ 2003. Regulations.

The Secretary of Health, Education, and Welfare is also authorized to make such other regulations as he deems desirable to carry out the provisions of this chapter. (Aug. 5, 1954, ch. 658, § 3, 68 Stat. 674.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2005 of this title.

§ 2004. Transfer of personnel, property, records, monies.

The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Office of Management and Budget shall determine to relate primarily to the functions transferred to the Public Health Service of the Department of Health, Education, and Welfare hereunder, are transferred for use in the administration of the functions so transferred. Any of the personnel transferred pursuant to this chapter which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service. (Aug. 5, 1964, ch. 658, § 4, 68 Stat. 674; 1970 Reorg.

Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2005 of this title

§ 2004a. Sanitation facilities.

(a) Powers of Surgeon General.

In carrying out his functions under this chapter with respect to the provision of sanitation facilities and services, the Surgeon General is authorized—

(1) to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage- and waste-disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities, and lands;

(2) to acquire lands, or rights or interests therein, including sites, rights-of-way, and easements, and to acquire rights to the use of water, by purchase, lease, gift, exchange, or otherwise, when necessary for the purposes of this section, except that no lands or rights or interests therein may be acquired from an Indian tribe, band, group, community, or individual other than by gift or for nominal consideration, if the facility for which such lands or rights or interests therein are acquired is for the exclusive benefit of such tribe, band, group, community, or individual, respectively;

(3) to make such arrangements and agreements with appropriate public authorities and nonprofit organizations or agencies and with the Indians to be served by such sanitation facilities (and any other person so served) regarding contributions toward the construction, improvement, extension and provision thereof, and responsibilities for maintenance thereof, as in his judgment are equitable and will best assure the future maintenance of facilities in an effective and operating condition; and

(4) to transfer any facilities provided under this section, together with appurtenant interests in land, with or without a money consideration, and under such terms and conditions as in his judgment are appropriate, having regard to the contributions made and the maintenance responsibilities undertaken, and the special health needs of the Indians concerned, to any State or Territory or subdivision or public authority thereof, or to any Indian tribe, group, band, or community or, in the case of domestic appurtenances and fixtures, to any one or more of the occupants of the Indian home served thereby.

(b) Transfer and reversion of lands.

The Secretary of the Interior is authorized to transfer to the Surgeon General for use in carrying out the purposes of this section such interest and rights in federally owned lands under the jurisdiction of the Department of the Interior, and in Indian-owned lands that either are held by the United States in trust for Indians or are subject to a restriction against alienation imposed by the United States, including appurtenances and improvements thereto, as may be requested by the Surgeon General. Any land or interest therein, including appurtenances and improvements to such land, so transferred shall be subject to disposition by the Surgeon General in accordance with paragraph (4) of subsection (a) of this section: *Provided,* That, in any case where a beneficial interest in such land is in any Indian, or Indian tribe, band, or group, the consent of such beneficial owner to any such transfer or disposition shall first be obtained: *Provided further,* That where deemed appropriate by the Secretary of the Interior provisions shall be made for a reversion of title to such land if it ceases to be used for the purpose for which it is transferred or disposed.

(c) Project consultation and participation.

The Surgeon General shall consult with, and encourage the participation of, the Indians concerned, States and political subdivisions thereof, in carrying out the provisions of this section. (Aug. 5, 1954, ch. 658, § 7, as added July 31, 1959, Pub. L. 86–121, § 1, 73 Stat. 267.)

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

§ 2005. Construction of health facilities; financial assistance by Surgeon General.

Whenever the Surgeon General of the Public Health Service, in carrying out his functions under sections 2001 to 2004 of this title with respect to the provision of health services to Indians in any particular area, determines, after consultation with such Indians, that the provision of financial assistance to one or more public or other nonprofit agencies or organizations for the construction of a community hospital constitutes a method of making needed hospital facilities available for such Indians which is more desirable and effective than direct Federal construction, he may provide such financial assistance from funds available for the construction of Indian health facilities for such Indians. (Pub. L. 85–151, § 1, Aug. 16, 1957, 71 Stat. 370.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section I of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005a, 2005b, 2005c, 2005d, 2005e, 2005f of this title.

§ 2005a. Same; amount of assistance; determination of costs.

The amount of such financial assistance shall not exceed that portion of the reasonable cost of the construction project which is attributable to the Indian health needs, as determined by the Surgeon General: *Provided,* That in determining, for the purposes of sections 2005 to 2005f of this title, the portion of the cost of the construction project attributable to Indian health needs, the Surgeon General shall take into account only those categories of Indians for which hospital and medical care, including outpatient care and field health services, is being provided by or at the expense of the Public Health Service on August 16, 1957. (Pub. L. 85–151, § 2, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section I of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005b, 2005d, 2005e, 2005f of this title.

§ 2005b. Same; conditions of assistance.

As a condition to providing assistance under section 2005 of this title, the Surgeon General shall—

(a) require plans and specifications meeting such standards of construction and equipment as he may prescribe, and

(b) obtain such assurances and agreements as in his judgment are equitable in the light of the financial assistance provided under sections 2005 to 2005f of this title and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under sections 291 to 291n of this title. (Pub. L. 85–151, § 3, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section I of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005a, 2005d, 2005e, 2005f of this title.

§ 2005c. Same; payments.

The Surgeon General shall make payments under section 2005 of this title in advance or by way of reimbursement and in such installments consistent with construction progress, as he may determine. (Pub. L. 85–151, § 4, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section I of 1966 Reorg. Plan No. 3, set out as a note under section 202 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005a, 2005b, 2005d, 2005e, 2005f of this title.

§ 2005d. Same; eligibility of assisted project for aid under other acts; excluded costs.

Neither assistance provided under sections 2005 to 2005f of this title for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under sections 291 to 291n of this title or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under sections 2005 to 2005f of this title shall not be included in the cost of construction in which the Federal Government shares under such sections 291 to 291n of this title or other Federal Act. (Pub. L. 85–151, § 5, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005a, 2005b, 2005e, 2005f of this title.

§ 2005e. Same; definitions.

As used in sections 2005 to 2005f of this title:

(a) "Hospital" includes diagnostic or treatment centers and general hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(b) "Diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State.

(c) "Nonprofit" means owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) "Construction" means construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities), including architects and engineering fees, but excluding legal fees, the cost of off-site improvements and the cost of the acquisition of land. (Pub. L. 85–151, § 6, Aug. 16, 1957, 71 Stat. 371.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005a, 2005b, 2005d, 2005f of this title.

§ 2005f. Same; supervision or control of assisted hospitals.

Except as otherwise specifically provided, nothing in sections 2005 to 2005f of this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital, with respect to which any funds have been or may be expended under sections 2005 to 2005f of this title. (Pub. L. 85–151, § 7, Aug. 16, 1957, 71 Stat. 372.)

CODIFICATION

Section was not enacted as part of act Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674, which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2005a, 2005b, 2005d, 2005e of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 sections 7533, 8312; title 22 sections 2022, 2024.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 2011. Congressional declaration of policy.

Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

(a) the development, use, and control of atomic energy shall be directed so as to make the maximum

contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

(b) the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise. (Aug. 1, 1946, ch. 724, § 1, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921.)

SHORT TITLE

Section 291 of act Aug. 1, 1946, as added by act Aug. 30, 1954, § 1, provided that the enactment of this chapter, and amendments to former sections 1031(d) and 1032 of Title 5, should be popularly known as the "Atomic Energy Act of 1954."

SEPARABILITY OF PROVISIONS

Section 281 of act Aug. 1, 1946, as added by act Aug. 30, 1954, § 1, provided that: "If any provision of this Act [this chapter] or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act [this chapter] or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755 (formerly classified to section 1801 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

§ 2012. Congressional findings.

The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

(b) Repealed. Pub. L. 88–489, § 1, Aug. 26, 1964, 78 Stat. 602.

(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

(h) Repealed. Pub. L. 88–489, § 2, Aug. 26, 1964, 78 Stat. 602.

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses. (Aug. 1, 1946, ch. 724, § 2, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended Sept. 2, 1957, Pub. L. 85–256, § 1, 71 Stat. 576; Aug. 26, 1964, Pub. L. 88–489, §§ 1, 2, 78 Stat. 602.)

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–489, § 1, eliminated subsec. (b) which found that the use of the United States property by others must be regulated in the national interest and in order to provide for common defense and security and to protect the health and safety of the public.

Subsec. (h). Pub. L. 88–489, § 2, eliminated subsec. (h) which found it essential to the common defense and security that title to all special nuclear material be in the United States while such special nuclear material is within the United States.

1957—Subsec. (i). Pub. L. 85–256 added subsec. (i).

SHORT TITLE OF 1964 AMENDMENT

Section 21 of Pub. L. 88–489 provided that Pub. L. 88–489, amending this section, and sections 2013, 2073—2078, 2135, 2153, 2201, 2221, 2233 and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as noted under this section and former section 2072 of this title, may be cited as the "Private Ownership of Special Nuclear Materials Act."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755 (formerly classified to section 1801 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

CONTROL AND REGULATION POWERS OF UNITED STATES AND OF ATOMIC ENERGY COMMISSION UNAFFECTED BY PRIVATE OWNERSHIP OF SPECIAL NUCLEAR MATERIALS

Section 20 of Pub. L. 88–489 provided that: "Nothing in this Act [amending this section, and sections 2013, 2073—2078, 2135, 2153, 2201, 2233 and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under this section and former section 2072 of this title] shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [this chapter], to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives."

§ 2013. Purpose of chapter.

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

(b) a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

(c) a program for Government control of the possession, use, and production of atomic energy and

special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

(d) a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

(e) a program of international cooperation to promote the common defense and security and to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

(f) a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate. (Aug. 1, 1946, ch. 724, § 3, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 922, and amended Aug. 26, 1964, Pub. L. 88-489, § 3, 78 Stat. 602.)

AMENDMENTS

1964—Subsec. (c). Pub. L. 88-489 inserted "whether owned by the Government or others" and "and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755 (formerly classified to section 1801 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

§ 2014. Definitions.

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter:

(a) The term "agency of the United States" means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

(b) The term "agreement for cooperation" means any agreement with another nation or regional defense organization authorized or permitted by sections 2074, 2077, 2094, 2112, 2121(c), 2133, 2134, or 2164 of this title, and made pursuant to section 2153 of this title.

(c) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(e) The term "byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(f) The term "Commission" means the Atomic Energy Commission.

(g) The term "common defense and security" means the common defense and security of the United States.

(h) The term "defense information" means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

(i) The term "design" means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

(j) The term "extraordinary nuclear occurrence" means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Commission determines to be substantial, and which the Commission determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Commission that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Commission shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, "offsite" means away from "the location" or "the contract location" as defined in the applicable Commission indemnity agreement, entered into pursuant to section 2210 of this title.

(k) The term "financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(l) The term "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(m) The term "indemnitor" means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Commission with respect to any obligation undertaken by it in an indemnity agreement entered into pursuant to section 2210 of this title.

(n) The term "international arrangement" means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

(o) The term "Joint Committee" means the Joint Committee on Atomic Energy.

(p) The term "licensed activity" means an activity licensed pursuant to this chapter and covered by the provisions of section 2210(a) of this title.

(q) The term "nuclear incident" means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in section 2210(*l*) of this title, it shall include any such occurrence outside of the United States: *And provided further,* That as the term is used in section 2210(d) of this title, it shall include any such occurrence outside the United States if such occurrence involves a facility or device owned by, and used by or under contract with, the United States.

(r) The term "operator" means any individual who manipulates the controls of a utilization or production facility.

(s) The term "person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(t) The term "person indemnified" means (1) with respect to a nuclear incident occurring within the United States and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability; or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of section 2210(d) of this title has been extended or under any subcontract, purchase order or other agreement, of any tier, under any such contract or project.

(u) The term "produce", when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

(v) The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(w) The term "public liability" means any legal liability arising out of or resulting from a nuclear incident, except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in section 2210(a), (c), and (k) of this title, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. "Public liability" also includes damage to property of persons indemnified: *Provided,* That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

(x) The term "research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(y) The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 2162 of this title.

(z) The term "source material" means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 2091 of this title to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

(aa) The term "special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 2071 of this title, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(bb) The term "United States" when used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

(cc) The term "utilization facility" means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable

of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. (Aug. 1, 1946, ch. 724, § 11, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 922, and amended Aug. 6, 1956, ch. 1015, § 1, 70 Stat. 1069; Sept. 2, 1957, Pub. L. 85-256, § 3, 71 Stat. 576; Aug. 8, 1958, Pub. L. 85-602, § 1, 72 Stat. 525; Sept. 6, 1961, Pub. L. 87-206, §§ 2, 3, 75 Stat. 476; Aug. 29, 1962, Pub. L. 87-615, §§ 4, 5, 76 Stat. 410; Oct. 13, 1966, Pub. L. 89-645, § 1(a), 80 Stat. 891.)

AMENDMENTS

1966—Subsec. (j). Pub. L. 89-645, § 1(a)(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (*l*). Pub. L. 89-645, § 1(a)(1), redesignated former subsecs. (j) and (k) as (k) and (*l*), respectively. Former subsec. (*l*) redesignated (n).

Subsec. (m). Pub. L. 89-645, § 1(a)(3), added subsec. (m). Former subsec. (m) redesignated (*o*).

Subsecs. (n)—(p). Pub. L. 89-645, § 1(a)(1), redesignated former subsecs. (*l*)—(n) as (n)—(p), respectively. Former subsecs. (n)—(p) redesignated (p)—(r), respectively.

Subsec. (q). Pub. L. 89-645, § 1(a)(1) and (4), redesignated former subsec. (*o*) as (q) and inserted ", including an extraordinary nuclear occurrence," between "occurrence" and "within", respectively. Former subsec. (q) redesignated (s).

Subsecs. (r)—(cc). Pub. L. 89-645, § 1(a)(1), redesignated former subsecs. (p)—(aa) as (r)—(cc), respectively.

1962—Subsec. (*o*). Pub. L. 87-615, § 4, enlarged the definition of "nuclear incident" to include any occurrence within the United States causing any of the listed injuries and damages within or outside the United States, provided that as used in section 2210(*l*) of this title, the term shall "include" instead of "mean" any such occurrence outside the United States, and that as used in section 2210(d) of this title, the term shall include any such occurrence outside the United States if such occurrence involves a facility or devise owned by, and used by or under contract with, the United States.

Subsec. (r). Pub. L. 87-615, § 5, lir ced the definition of "person indemnified" to nuclear incidents occurring within the United States, or in connection with the nuclear ship Savannah, and added the provisions with respect to nuclear incidents occurring outside the United States.

1961—Subsec. (b). Pub. L. 87-206, § 2, included section 2121(c) of this title in the enumeration.

Subsec. (u). Pub. L. 87-206, § 3, designated existing provisions as clauses (i) and (ii) and added clause (iii).

1958—Subsec. (*o*). Pub. L. 85-602 added the proviso clause defining the term "nuclear incident" as it is used in section 2210 (*l*) of this title.

1957—Subsec. (j). Pub. L. 85-256 added subsec. (j) and also redesignated former subsec. (j) as (k).

Subsecs. (k)—(m). Pub. L. 85-256, redesignated former subsecs. (j)—(*l*) as (k)—(m), respectively and also former subsec. (m) as (p).

Subsec. (n). Pub. L. 85-256, added subsec. (n) and also redesignated former subsec. (n) as (q).

Subsec. (*o*). Pub. L. 85-256 added subsec. (*o*) and also redesignated former subsec. (*o*) as (s).

Subsecs. (p) and (q). Pub. L. 85-256 redesignated former subsecs. (m) and (n) as (p) and (q), respectively, and also redesignated former subsecs. (p) and (q) as (t) and (u), respectively.

Subsec. (r). Pub. L. 85-256 added subsec. (r) and also redesignated former subsec. (r) as (w).

Subsecs. (s) and (t). Pub. L. 85-256 redesignated former subsecs. (*o*) and (p) as (s) and (t), respectively, and also redesignated former subsecs. (s) and (t) as (x) and (y), respectively.

Subsec. (u). Pub. L. 85-256 added subsec. (u) and also redesignated former subsec. (u) as (z).

Subsecs. (v)—(aa). Pub. L. 85-256 redesignated former subsecs. (q)—(v) as (v)—(aa), respectively.

1956—Subsec. (u). Act Aug. 6, 1956 substituted "the Canal Zone and Puerto Rico" for "and the Canal Zone".

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 18 of act Aug. 1, 1946, ch. 724, 60 Stat. 774 (formerly classified to section 1818 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2139, 2291 of this title.

§ 2015. Transfer of property.

Nothing in this chapter shall be deemed to repeal, modify, amend, or alter the provisions of section 9 (a) of the Atomic Energy Act of 1946, as heretofore amended. (Aug. 1, 1946, ch. 724, § 241, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960.)

REFERENCES IN TEXT

Section 9 (a) of the Atomic Energy Act of 1946, as heretofore amended, referred to in the text, which was formerly classified to section 1809 (a) of this title, provided that:

"The President shall direct the transfer to the Commission of all interests owned by the United States or any Government agency in the following property:

"(1) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources (relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items;

"(2) All facilities, equipment, and materials, devoted primarily to atomic energy research and development; and

"(3) Such other property owned by or in the custody or control of the Manhattan Engineer District or other Government agencies as the President may determine."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 9 of act Aug. 1, 1946, ch. 724, 60 Stat. 765 (formerly classified to section 1809 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§ 2016. Reports to Congress.

The Commission shall submit to the Congress, in January of each year, a report concerning the activities of the Commission. The Commission shall include in such report, and shall at such other times as it deems desirable submit to the Congress, such recommendations for additional legislation as the Commission deems necessary or desirable. (Aug. 1, 1946, ch. 724, § 251, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, and amended June 11, 1959, Pub. L. 86-43, 73 Stat. 73.)

AMENDMENTS

1959—Pub. L. 86-43 deleted "and July" following "January".

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 17 of act Aug. 1, 1946, ch. 724, 60 Stat. 774 (formerly classified to section 1817 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

§ 2017. Appropriations.

(a) Congressional authorization.

No appropriation shall be made to the Commission, nor shall the Commission waive charges for the use of materials under the Cooperative Power Reactor Demonstration Program, unless previously authorized by legislation enacted by the Congress.

(b) Accounting.

Any Act appropriating funds to the Commission may appropriate specified portions thereof to be accounted for upon the certification of the Commission only.

(c) Restoration or replacement of facilities.

Notwithstanding the provisions of subsection (a) of this section, funds are hereby authorized to be appropriated for the restoration or replacement of any plant or facility destroyed or otherwise seriously damaged, and the Commission is authorized to use available funds for such purposes.

(d) Substituted construction projects.

Funds authorized to be appropriated for any construction project to be used in connection with the development or production of special nuclear material or atomic weapons may be used to start another construction project not otherwise authorized if the substituted construction project is within the limit of cost of the construction project for which substitution is to be made, and the Commission certifies that—

(1) the substituted project is essential to the common defense and security;

(2) the substituted project is required by changes in weapon characteristics or weapon logistic operations; and

(3) the Commission is unable to enter into a contract with any person on terms satisfactory to it to furnish from a privately owned plant or facility the product or services to be provided by the new project.

(Aug. 1, 1946, ch. 724, § 261, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, and amended July 3, 1957, Pub. L. 85-79, § 1, 71 Stat. 274; Aug. 29, 1962, Pub. L. 87-615, § 8, 76 Stat. 411; July 22, 1963, Pub. L. 88-72, § 107, 77 Stat. 88.)

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-72 required legislative authorization of appropriations to the Commission and waiver of charges for use of materials under the Cooperative Power Reactor Demonstration Program. Former provisions of subsec. (a) authorized appropriations necessary and appropriate to carry out the provisions and purposes of this chapter, excepting in par. (1) sums necessary for acquisition of real property or facility acquisition, construction or expansion (and deeming under certain conditions a nonmilitary experimental reactor to be a facility) and in par. (2) sums necessary to carry out cooperative programs for development and construction of reactors for demonstration of their use in production of electrical power or proccess heat, or for propulsion, or for commercial provision of byproduct material, irradiation or other special service, for civilian use, by arrangements providing for payment of funds, rendering of services and undertaking of research and development without full reimbursement, the waiver of charges accompanying such arrangement or the provision of other financial assistance pursuant to such arrangement or the acquisition of real property or facility acquisition, construction or expansion undertaken by the Commission as part of such arrangement.

Subsec. (b). Pub. L. 88-72 substituted "Any act appropriating funds to the Commission" for "The acts appropriating such sums."

Subsec. (c). Pub. L. 88-72 eliminated authorization of funds provision for advance planning, construction design and architectural services in connection with any plant or facility and inserted the "Notwithstanding" phrase.

Subsec. (d). Pub. L. 88-72 deleted "hereafter" following "Funds" and inserted "construction" preceding "project" in four instances.

1962—Subsecs. (c), (d). Pub. L. 87-615 added subsecs. (c) and (d).

1957—Pub. L. 85-79 designated first sentence as introductory clause of subsec. (a) and as (a) (1), added proviso to (a) (1), added (a) (2), by designating second sentence as subsec. (b), and eliminated former sentence which provided that "Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for four years following the expiration of the fiscal year for which appropriated.".

EFFECTIVE DATE OF 1963 AMENDMENT

Section 107 of Pub. L. 88-72 provided in part that the amendment of this section shall be effective Jan. 1, 1964.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 775 (formerly classified to section 1819 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2292, 2293 of this title.

§ 2017a. Same; advance planning, construction design, and architectural services.

CODIFICATION

Section, Pub. L. 87-701, § 103, Sept. 26, 1962, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission, was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter, and is now covered by section 2017a-1 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1961—Sept. 26, 1961, Pub. L. 87-315, § 103, 75 Stat. 678.
1960—May 13, 1960, Pub. L. 86-457, § 103, 74 Stat. 121.
1959—June 23, 1959, Pub. L. 86-50, § 103, 73 Stat. 83.
1958—Aug. 4, 1958, Pub. L. 85-590, § 103, 72 Stat. 492.
1957—Aug. 21, 1957, Pub. L. 85-162, title I, § 103, 71 Stat. 406.
1956—May 3, 1956, ch. 233, § 103, 70 Stat. 129.
1955—July 11, 1955, ch. 304, § 103, 69 Stat. 293.

§ 2017a-1. Same; construction design services.

The Commission is authorized to perform construction design services for any Commission construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Commission and (2) the Commission determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction. (Pub. L. 91-273, § 103, June 2, 1970, 84 Stat. 300.)

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1969—Pub. L. 91-44, § 103, July 11, 1969, 83 Stat. 47.
1968—Pub. L. 90-289, § 103, Apr. 19, 1968, 82 Stat. 97.
1967—Pub. L. 90-56, § 103, July 26, 1967, 81 Stat. 125.
1966—Pub. L. 89-428, § 103, May 21, 1966, 80 Stat. 163.
1965—Pub. L. 89-32, § 103, June 2, 1965, 79 Stat. 122.
1964—Pub. L. 88-332, § 104, June 30, 1964, 78 Stat. 229.

§ 2017b. Same; replacement of plants.

CODIFICATION

Section was from Pub. L. 87-701, § 104, Sept. 26, 1962, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission, was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter and is now covered by section 2017(c) of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

1961—Sept. 26, 1961, Pub. L. 87-315, § 104, 75 Stat. 678.
1960—May 13, 1960, Pub. L. 86-457, § 104, 74 Stat. 122.
1959—June 23, 1959, Pub. L. 86-50, § 104, 73 Stat. 83.
1958—Aug. 4, 1958, Pub. L. 85-590, 72 Stat. 493.
1957—Aug. 21, 1957, Pub. L. 85-162, title I, § 104, 71 Stat. 406.
1956—May 3, 1956, ch. 233, § 104, 70 Stat. 129.
1955—July 11, 1955, ch. 304, § 104, 69 Stat. 293.

§ 2018. Agency jurisdiction.

Nothing in this chapter shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided,* That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission. (Aug. 1, 1946, ch. 724, § 271, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960 and amended Aug. 24, 1965, Pub. L. 89-135, 79 Stat. 551.)

AMENDMENTS

1965—Pub. L. 89-135 inserted words "produced through the use of nuclear facilities licensed by the Commission: *Provided,* That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission."

§ 2019. Applicability of Federal Power Act.

Every licensee under this chapter who holds a license from the Commission for a utilization or production facility for the generation of commercial electric energy under section 2133 of this title and who transmits such electric energy in interstate commerce or sells it at wholesale in interstate commerce shall be subject to the regulatory provisions of the Federal Power Act. (Aug. 1, 1946, ch. 724, § 272, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960.)

REFERENCES IN TEXT

The Federal Power Act, referred to in the text, is classified to chapter 12 of Title 16, Conservation.

§ 2020. Licensing of government agencies.

Nothing in this chapter shall preclude any Government agency now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 2133 of this title, if qualified under the provisions of said section, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption. (Aug. 1, 1946, ch. 724, § 273, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960.)

§ 2021. Cooperation with States.

(a) Purpose.

It is the purpose of this section—

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

(b) Agreements with States.

Except as provided in subsection (c) of this section, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this chapter, and section 2201 of this title, with respect to any one or more of the following materials within the State—

(1) byproduct materials;

(2) source materials;

(3) special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities.

No agreement entered into pursuant to subsection (b) of this section shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—

(1) the construction and operation of any production or utilization facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Notwithstanding any agreement between the Commission and any State pursuant to subsection (b) of this section, the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

(d) Conditions.

The Commission shall enter into an agreement under subsection (b) of this section with any State if—

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons.

(1) Before any agreement under subsection (b) of this section is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection (f) of this section shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions.

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII of this chapter, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards.

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory and miscellaneous functions of the Administrator of the Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance.

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b) of this section.

(j) Reserve power to terminate or suspend agreements.

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) of this section has become effective, or upon request of the Governor of such State, may terminate or suspend its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, if the Commission finds that such termination or suspension is required to protect the public health and safety.

(k) State regulation of activities for certain purposes.

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(l) Commission regulated activities; notice of filing; hearing.

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c) of this section, the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

(m) Limitation of agreements and exemptions.

No agreement entered into under subsection (b) of this section, and no exemption granted pursuant to subsection (f) of this section, shall affect the authority of the Commission under section 2201 (b) or (i) of this title to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) of this section shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) Definition.

As used in this section, the term State means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. (Aug. 1, 1946, ch. 724, § 274, as added Sept. 23, 1959, Pub. L. 86–373, § 1, 73 Stat. 688, and amended 1970 Reorg. Plan No. 3, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. —.)

TRANSFER OF FUNCTIONS

Provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted from subsec. (h) and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council as set out in subsec. (h) pursuant to 1970 Reorg. Plan No. 3, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 263e of this title; title 29 section 653.

SUBCHAPTER II.—ORGANIZATION

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 2 of act Aug. 1, 1946, ch. 724, 60 Stat. 756 (formerly classified to section 1802 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2031. Atomic Energy Commission; composition; Chairman and Acting Chairman; quorum; official spokesman; seal.

There is established an Atomic Energy Commission, which shall be composed of five members, each of whom shall be a citizen of the United States. The President shall designate one member of the Commission as Chairman thereof to serve as such during the pleasure of the President. The Chairman may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all meetings of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or Acting Chairman in the absence of the Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, persons, or the public, and, on behalf of the Commission, shall see to the faithful execution of the policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct. The Commission shall have an official seal which shall be judicially noticed. (Aug. 1, 1946, ch. 724, § 21, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924, and amended Aug. 9, 1955, ch. 697, § 3, 69 Stat. 630.)

AMENDMENTS

1955—Act Aug. 9, 1955 authorized each member of the Commission to have full access to all information relating to the performance of his duties or responsibilities.

SALARY OF COMMISSIONER

Sections 1 and 2 of act Aug. 9, 1955, provided for the payment of the salary of a Commissioner appointed during the Senate recess following the First Session of the 84th Congress.

EX. ORD. NO. 9816. TRANSFER OF PROPERTY AND PERSONNEL TO THE ATOMIC ENERGY COMMISSION

Ex. Ord. No. 9816, Dec. 31, 1946, 12 F. R. 37, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946 [this chapter], and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.

(b) All facilities, equipment, and materials, devoted primarily to atomic energy research and development.

2. There also are transferred to the Atomic Energy Commission all property, real or personal, tangible or intangible, including records, owned by or in the possession, custody or control of the Manhattan Engineer District, War Department, in addition to the property described in paragraph 1 above. Specific items of such property, including records, may be excepted from transfer to the Commission in the following manner:

(a) The Secretary of War shall notify the Commission in writing as to the specific items of property or records he wishes to except; and

(b) If after full examination of the facts by the Commission, it concurs in the exception, those specific items of property or records shall be excepted from transfer to the Commission; or

(c) If after full examination of the facts by the Commission, it does not concur in the exception, the matter shall be referred to the President for decision.

3. The Atomic Energy Commission shall exercise full jurisdiction over all interests and property transferred to the Commission in paragraphs 1 and 2 above, in accordance with the provisions of the Atomic Energy Act of 1946 [this chapter].

4. Any Government agency is authorized to transfer to the Atomic Energy Commission, at the request of the Commission, any property, real or personal, tangible or intangible, acquired or used by such Government agency in connection with any of the property or interests transferred to the Commission by paragraphs 1 and 2 above.

5. Each Government agency shall supply the Atomic Energy Commission with a report on, and an accounting and inventory of, all interests and property, described in paragraphs 1, 2 and 4 above, owned by or in the possession, custody, or control of such Government agency, the form and detail of such report, accounting and inventory, to be determined by mutual agreement, or, in case of nonagreement, by the Director of the Bureau of the Budget.

6. (a) There also are transferred to the Atomic Energy Commission, all civilian officers and employees of the Manhattan Engineer District, War Department, except that the Commission and the Secretary of War may by mutual agreement exclude any of such personnel from transfer to the Commission.

(b) The military and naval personnel heretofore assigned or detailed to the Manhattan Engineer District, War Department, shall continue to be made available to the Commission, for military and naval duty, in similar manner, without prejudice, to the military or naval status of such personnel, for such periods of time as may be agreed mutually by the Commission and the Secretary of War or the Secretary of the Navy.

7. The assistance and the services, personal or other, including the use of property, heretofore made available by any Government agency to the Manhattan Engineer District, War Department, shall be made available to the Atomic Energy Commission for the same purposes as heretofore and under the arrangements now existing until terminated after 30 days notice given by the Commission or by the Government agency concerned in each case.

8. The Commission is authorized to exercise all of the powers and functions vested in the Secretary of War by Executive Order No. 9001, of December 27, 1941, as amended [set out as a note under section 611 of Appendix to Title 50], in so far as they relate to contracts heretofore made by or hereby transferred to the Commission.

9. Such further measures and dispositions as may be determined by the Atomic Energy Commission and any Government agency concerned to be necessary to effectuate the transfers authorized or directed by this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

10. This order shall be effective as of midnight, December 31, 1946.

Ex. Ord. No. 9816, was amended by Ex. Ord. No. 10657, Feb. 15, 1956, 21 F.R. 1063, and Ex. Ord. No. 11105, Apr. 19, 1963, 28 F.R. 3909, set out as notes under section 2313 of this title, to the extent that it may be inconsistent with such Executive orders.

Ex. Ord. No. 9829. Extension of Executive Order No. 9177 to Atomic Energy Committee

Ex. Ord. No. 9829, Feb. 21, 1947, 12 F. R. 1259, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, and particularly by Title I of the First War Powers Act, 1941, approved December 18, 1941 (55 Stat. 838) [sections 601—605 of Appendix to Title 50], and in the interest of the internal management of the Government, I hereby extend the provisions of Executive Order No. 9177 of May 30, 1942 (7 F. R. 4195) [set out as a note under section 601 of Appendix to Title 50], to the United States Atomic Energy Commission; and, subject to the limitations contained in that order, I hereby authorize the United States Atomic Energy Commission to perform and exercise all of the functions and powers vested in and granted to the Secretary of War, the Secretary of the Treasury, the Secretary of Agriculture, and the Reconstruction Finance Corporation by that order.

This order shall be applicable to articles entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 1947.

§ 2032. Members; appointment; terms; extraneous businesses.

(a) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate. In submitting any nomination to the Senate, the President shall set forth the experience and qualifications of the nominee. The term of office of each member of the Commission taking office after June 30, 1950, shall be five years, except that (1) the terms of office of the members first taking office after June 30, 1950, shall expire, as designated by the President at the time of the appointment, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after June 30, 1950; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) No member of the Commission shall engage in any business, vocation, or employment other than that of serving as a member of the Commission. (Aug. 1, 1946, ch. 724, § 22, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 924, and amended Sept. 4, 1957, Pub. L. 85–287, § 1, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88–426, title III, § 305(10)(A), 78 Stat. 423.)

Amendments

1964—Subsec. (a). Pub. L. 88–426 repealed provisions which prescribed the compensation of the Chairman and members of the Commission.

1957—Subsec. (a). Pub. L. 85–287 increased the compensation of members from $18,000 to $22,000 per annum, and that of the Chairman from $20,000 to $22,500 per annum.

Effective Date of 1964 Amendment

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

Cross References

Compensation of Chairman and members of Commission, see sections 5313 and 5314, respectively of Title 5, Government Organization and Employees.

§ 2033. Principal office.

The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia. (Aug. 1, 1946, ch. 724, § 23, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925.)

EXPENSES FOR MOVE TO NEW PRINCIPAL OFFICE

Section 109 of Pub. L. 85–162, title I, Aug. 21, 1957, 71 Stat. 407, as amended by Pub. L. 85–590, § 108, Aug. 4, 1958, 72 Stat. 493, authorized the Commission to use its funds for the payment for travel and transportation expenses in connection with the relocation of residence of employees in order to facilitate retention and relocation of Commission headquarter employees.

§ 2034. General Manager, Deputy and Assistant General Managers.

There is established within the Commission—

(a) General Manager; chief executive officer; duties; appointment; removal.

a General manager, who shall be the chief executive officer of the Commission, and who shall discharge such of the administrative and executive functions of the Commission as the Commission may direct. The General Manager shall be appointed by the Commission, shall serve at the pleasure of the Commission, and shall be removable by the Commission.

(b) Deputy General Manager; duties; appointment; removal.

a Deputy General Manager, who shall act in the stead of the General Manager during his absence when so directed by the General Manager, and who shall perform such other administrative and executive functions as the General Manager shall direct. The Deputy General Manager shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(c) Assistant General Managers; duties; appointment; removal.

Assistant General Managers, or their equivalents (not to exceed a total of three positions), who shall perform such administrative and executive functions as the General Manager shall direct. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager. (Aug. 1, 1946, ch. 724, § 24, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925, and amended Sept. 4, 1957, Pub. L. 85–287, § 2, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88–426, title III, § 306(f) (1)—(3), 78 Stat. 429.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–426, § 306(f)(1), eliminated provisions which prescribed the compensation of the General Manager. See section 2211 of Title 5, Executive Departments and Government Officers and Employees.

Subsec. (b). Pub. L. 88–426, § 306(f)(2), eliminated provisions which prescribed the compensation of the Deputy General Manager. See section 2211 of Title 5, Executive Departments and Government Officers and Employees.

Subsec. (c). Pub. L. 88–426, § 306(f)(3), eliminated provisions which prescribed the compensation of the Assistant General Managers. See section 2211 of Title 5, Executive Departments and Government Officers and Employees.

1957—Subsec. (a). Pub. L. 85–287 designated existing provisions as subsec. (a), designated the General Manager as the chief executive officer of the Commission, and increased his compensation from $20,000 to $22,000 per annum.

Subsecs. (b) and (c). Pub. L. 85–287 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426, set out as a note under section 1113 of Title 5, Executive Departments and Government Officers and Employees.

CROSS REFERENCES

Compensation of General Manager, Deputy General Manager and Assistant General Managers, see sections 5315 and 5316 of Title 5, Government Organization and Employees.

§ 2035. Divisions, offices, and positions.

There is established within the Commission—

(a) Program divisions; appointment and powers of the Assistant General Manager and the Division Directors.

a Division of Military Application and such other program divisions (not to exceed ten in number) as the Commission may determine to be necessary to the discharge of its responsibilities, including a division or divisions the primary responsibilites of which include the development and application of civilian uses of atomic energy. The Division of Military Application shall be under the direction of an Assistant General Manager for Military Application, who shall be appointed by the Commision and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate. Each other program division shall be under the direction of a Director who shall be appointed by the Commission. The Commission shall require each such division to exercise such of the Commission's administrative and executive powers as the Commission may determine;

(b) General Counsel.

an Office of the General Counsel under the direction of the General Counsel who shall be appointed by the Commission; and

(c) Inspection Division; duties.

an Inspection Division under the direction of a Director who shall be appointed by the Commission. The Inspection Division shall be responsible for gathering information to show whether or not the contractors, licensees, and officers and employees of the Commission are complying with the provisions of this chapter (except those provisions for which the Federal Bureau of Investigation is responsible) and the appropriate rules and regulations of the Commission.

(d) Executive management positions; appointment; removal

such other executive management positions (not to exceed six in number) as the Commission may determine to be necessary to the discharge of its responsibilities. Such positions shall be established by the General Manager with the approval of the Commission. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager. (Aug. 1, 1946, ch. 724, § 25 as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 925, and amended Sept. 4, 1957, Pub. L. 85–287, § 3, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88–426, title III, § 306(f) (4)—(7), 78 Stat. 429, 430; Dec. 14, 1967, Pub. L. 90–190, § 5, 81 Stat. 577.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–190 substituted an Assistant General Manager for Military Application, who would be appointed by the Commission, for the Director of the Division of Military Application as the head of the Division of Military Application, added the requirement that the Assistant General Manager be a commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate, and substituted "other program division" for "such division".

1964—Subsec. (a). Pub. L. 88–426, § 306(f)(4), eliminated provisions which prescribed the compensation of directors of program divisions.

Subsec. (b). Pub. L. 88–426, § 306(f)(5), eliminated provisions which prescribed the compensation of the General Counsel. See section 2211 of Title 5, Executive Departments and Government Officers and Employees.

Subsec. (c). Pub. L. 88–426, § 306(f)(6), eliminated provisions which prescribed the compensation of the Director of the Inspection Division.

Subsec. (d). Pub. L. 88–426, § 306(f)(7), eliminated provisions which prescribed the compensation of the executive management positions.

1957—Pub. L. 85–287 substituted "Divisions, offices, and positions" for "Divisions and offices" in the catchline.

Subsec. (a) Pub. L. 85–287 increased the compensation of the Director from $16,000 to $19,000 per annum.

Subsec. (b). Pub. L. 85–287 increased the compensation of the General Counsel from $16,000 to $19,500 per annum.

Subsec. (c). Pub. L. 85–287 increased the compensation of the Director from $16,000 to $19,000 per annum.

Subsec. (d) Pub. L. 85–287 added subsec. (d).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426.

§ 2036. General Advisory Committee; composition; tenure; meetings; compensation.

There shall be a General Advisory Committee to advise the Commission on scientific and technical matters relating to materials, production, and research and development, to be composed of nine members, who shall be appointed from civilian life by the President. Each member shall hold office for a term of six years, except that (a) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (b) the terms of office of the members first taking office after August 1, 1946, shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and three at the end of six years, after August 1, 1946. The Committee shall designate one of its own members as Chairman. The Committee shall meet at least four times in every calendar year. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. (Aug. 1, 1946, ch. 724, § 26, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2203 of this title.

§ 2037. Military Liaison Committee; composition; duties; authority of Defense Department.

There is established a Military Liaison Committee consisting of—

(a) a Chairman, who shall be the head thereof and who shall be appointed by the President, by and with the advice and consent of the Senate, who shall serve at the pleasure of the President; and

(b) a representative or representatives from each of the Departments of the Army, Navy, and Air Force, in equal numbers, as determined by the Secretary of Defense, to be assigned from each Department by the Secretary thereof, and who will serve without additional compensation.

The Chairman of the Committee may designate one of the members of the Committee as Acting Chairman to act during his absence. The Commission shall advise and consult with the Department of Defense, through the Committee, on all atomic energy matters which the Department of Defense deems to relate to military applications of atomic weapons or atomic energy including the development, manufacture, use, and storage of atomic weapons, the allocation of special nuclear material for military research, and the control of information relating to the manufacture or utilization of atomic weapons; and shall keep the Department of Defense, through the Committee, fully and currently informed of all such matters before the Commission. The Department of Defense, through the Committee, shall keep the Commission fully and currently informed on all matters within the Department of Defense which the Commission deems to relate to the development or application of atomic energy. The Department of Defense, through the Committee, shall have the authority to make written recommendations to the Commission from time to time on matters relating to military applications of atomic energy as the Department of Defense may deem appropriate. If the Department of Defense at any time concludes that any request, action, proposed action, or failure to act on the part of the Commission is adverse to the responsibilities of the Department of Defense, the Secretary of Defense shall refer the matter to the President whose decision shall be final. (Aug. 1, 1946, ch. 724, § 27, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926, and amended Aug. 14, 1964, Pub. L. 88–426, title III, § 305(10)(B), 78 Stat. 423.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–426 repealed provisions which directed that the Chairman shall receive compensation at the rate prescribed for an Assistant Secretary of Defense.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426.

CROSS REFERENCES

Compensation of Chairman of Committee, see section 5316 of Title 5, Government Organization and Employees.

§ 2038. Appointment of Army, Navy, or Air Force officer as Assistant General Manager for Military Application; Chairman of Military Liaison Committee; compensation.

Notwithstanding the provisions of any other law, the officer of the Army, Navy, or Air Force serving as Assistant General Manager for Military Application shall serve without prejudice to his commissioned status as such officer. Any such officer serving

as Assistant General Manager for Military Application shall receive in addition to his pay and allowances, including special and incentive pays, for which pay and allowances the Commission shall reimburse his service, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation established for this position. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay, subject to section 201 of the Dual Compensation Act. (Aug. 1, 1946, ch. 724, § 28, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 926, and amended Aug. 14, 1964, Pub. L. 88–426, title III, § 306(f)(8), 78 Stat. 430; Aug. 19, 1964, Pub. L. 88–448, title IV, § 401(f), 78 Stat. 490; Dec. 14, 1967, Pub. L. 90–190, § 6, 81 Stat. 577.)

REFERENCES IN TEXT

Section 201 of the Dual Compensation Act, referred to in text, was repealed in the general revision of Title 5, and the provisions are now covered by section 5532 of Title 5, Government Organization and Employees.

AMENDMENTS

1967—Pub. L. 90–190 substituted "the officer of the Army, Navy, or Air Force serving" for "any active officer of the Army, Navy, or Air Force may serve" and "Assistant General Manager for Military Application" for "Director of the Division of Military Application" wherever appearing, provided for reimbursement by the Commission to the service of the Assistant General Manager for the pay and allowances received by him from his service while he is serving as Assistant General Manager, and struck out references to sections 2211 and 2213 of former Title 5.

1964—Pub. L. 88–448 substituted provisions permitting a retired officer serving as Chairman of the Military Liaison Committee to receive the compensation fixed for such Chairman and his retired pay, subject to section 3102 of Title 5, for provisions which permitted a retired officer serving as Chairman to receive in addition to his retired pay, an amount equal to the difference between his retired pay and the compensation prescribed for the Chairman.

Pub. L. 88–426 substituted "and the compensation established for this position pursuant to section 2211 or 2213 of Title 5" for "and the compensation prescribed in section 2035 of this title."

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment of section by Pub. L. 88–448 effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

§ 2039. Advisory Committee on Reactor Safeguards; composition; tenure; duties; compensation.

There is established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of section 2203 of this title shall be applicable to the Committee. (Aug. 1, 1946, ch. 724, § 29, as added Sept. 2, 1957, Pub. L. 85–256, § 5, 71 Stat. 579.)

SUBCHAPTER III.—RESEARCH

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 3 of act Aug. 1, 1946, ch. 724, 60 Stat. 758 (formerly classified to section 1803 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2051. Research assistance; fields covered; conditions.

(a) The Commission is directed to exercise its powers in such manner as to insure the continued conduct of research and development and training activities in the fields specified below, by private or public institutions or persons, and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To this end the Commission is authorized and directed to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities relating to—

(1) nuclear processes;

(2) the theory and production of atomic energy, including processes, materials, and devices related to such production;

(3) utilization of special nuclear material and radioactive material for medical, biological, agricultural, health, or military purposes;

(4) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial or commerical uses, the generation of usable energy, and the demonstration of advances in the commerical or industrial application of atomic energy; and

(5) the protection of health and the promotion of safety during research and production activities.

(b) The Commission is further authorized to make grants and contributions to the cost of construction and operation of reactors and other facilities and other equipment to colleges, universities, hospitals, and eleemosynary or charitable institutions for the conduct of educational and training activities relating to the fields in subsection (a) of this section.

(c) The Commission may (1) make arrangements pursuant to this section, without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable; (2) make partial and advance payments under such arrangements; and (3) make available for use in connection therewith such of its equipment and facilities as it may deem desirable.

(d) The arrangements made pursuant to this section shall contain such provisions (1) to protect health, (2) to minimize danger to life or property, and (3) to require the reporting and to permit the inspection of work performed thereunder, as the Commission may determine. No such arrangement shall contain any provisions or conditions which prevent the dissemination of scientific or technical information, except to the extent such dissemination is prohibited by law. (Aug. 1, 1946, ch. 724, § 31, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 927, and amended Aug. 6, 1956, ch. 1015, §§ 2, 3, 70 Stat. 1069; Dec. 19, 1970, Pub. L. 91-560, § 1, 84 Stat. 1472.)

AMENDMENTS

1970—Subsec. (a)(4). Pub. L. 91-560 added commercial uses as an additional purpose and substituted "demonstration of advances in the commercial or industrial application of atomic energy" for "demonstration of the practical value of utilization or production facilities for industrial or commercial purposes".

1956—Subsec. (a). Act Aug. 6, 1956, § 2, inserted the words "and training" after the word "development" in the first sentence.

Subsec. (b). Act Aug. 6, 1956, § 3, added subsec. (b) and redesignated former subsecs. (b) and (c), as subsecs. (c) and (d).

Subsecs. (c) and (d). Act Aug. 6, 1956, § 3, redesignated former subsecs. (b) and (c) as (c) and (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2052, 2053, 2061, 2122, 2134, 2165, 2183, 2201, 2209 of this title.

§ 2052. Research by the Commission.

The Commission is authorized and directed to conduct, through its own facilities, activities and studies of the types specified in section 2051 of this title. (Aug. 1, 1946, ch. 724, § 32, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928.)

§ 2053. Same; research for others; charges.

Where the Commission finds private facilities or laboratories are inadequate to the purpose, it is authorized to conduct for other persons, through its own facilities, such of those activities and studies of the types specified in section 2051 of this title as it deems appropriate to the development of atomic energy. To the extent the Commission determines that private facilities or laboratories are inadequate to the purpose, and that the Commission's facilities, or scientific or technical resources have the potential of lending significant assistance to other persons in the fields of protection of public health and safety, the Commission may also assist other persons in these fields by conducting for such persons, through the Commission's own facilities, research and development or training activities and studies. The Commission is authorized to determine and make such charges as in its discretion may be desirable for the conduct of the activities and studies referred to in this section. (Aug. 1, 1946, ch. 724, § 33, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 928, and amended Dec. 14, 1967, Pub. L. 90-190, § 7, 81 Stat. 577.)

AMENDMENTS

1967—Pub. L. 90-190 added the provision which authorized the Commission, to the extent the Commission made certain determinations, to assist other persons on the fields of protection of public health and safety by conducting for such persons, through the facilities of the Commission, research and development or training activities and studies, and substituted "the activities and studies referred to in this section" for "such activities and studies".

SUBCHAPTER IV.—PRODUCTION OF SPECIAL NUCLEAR MATERIAL

§ 2061. Production facilities.

(a) Ownership.

The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 2051 of this title, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; or (2) are licensed by the Commission pursuant to section 2133 or 2134 of this title.

(b) Operation of Commission's facilities.

The Commission is authorized and directed to produce or to provide for the production of special nuclear material in its own production facilities. To the extent deemed necessary, the Commission is authorized to make, or to continue in effect, contracts with persons obligating them to produce special nuclear material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce special nuclear material in facilities owned by the Commission to the extent that the production of such special nuclear material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (1) prohibiting the contractor from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission; and (2) obligating the contractor (A) to make such reports pertaining to activities under the contract to the Commission as the Commission may require, (B) to submit to inspection by employees of the Commission of all such activities, and (C) to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under such contracts.

(c) Operation of other facilities.

Special nuclear material may be produced in the facilities which under this section are not required to be owned by the Commission. (Aug. 1, 1946, ch. 724, § 41, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921 and amended Dec. 14, 1967, Pub. L. 90–190, § 8, 81 Stat. 577.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759 (formerly classified to section 1804 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–190 struck out the provision requiring the President to determine in writing at least once each year the quantities of special nuclear material to be produced under this section, and to specify in such determination the quantities of special nuclear material to be available for distribution by the Commission pursuant to sections 2073 and 2074 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2073, 2165 of this title.

§ 2062. Irradiation of materials.

The Commission and persons lawfully producing or utilizing special nuclear material are authorized to expose materials of any kind to the radiation incident to the processes of producing or utilizing special nuclear material. (Aug. 1, 1946, ch. 724, § 42, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759 (formerly classified to section 1804 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

§ 2063. Acquisition of production facilities.

The Commission is authorized to purchase any interest in facilities for the production of special nuclear materials, or in real property on which such facilities are located, without regard to the provisions of section 5 of Title 41 upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. The Commission is further authorized to requisition, condemn, or otherwise acquire any interest in such production facilities, or to condemn or otherwise acquire such real property, and just compensation shall be made therefor. (Aug. 1, 1946, ch. 724, § 43, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760 (formerly classified to section 1805 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2064. Disposition of energy; regulation on sale.

If energy is produced at production facilities of the Commission or is produced in experimental utilization facilities of the Commission, such energy may be used by the Commission, or transferred to other Government agencies, or sold to publicly, cooperatively, or privately owned utilities or users at reasonable and nondiscriminatory prices. If the energy produced is electric energy, the price shall be subject to regulation by the appropriate agency having jurisdiction. In contracting for the disposal of such energy, the Commission shall give preference and priority to public bodies and cooperatives or to privately owned utilities providing electric utility services to high cost areas not being served by public bodies or cooperatives. Nothing in this chapter shall be construed to authorize the Commission to engage in the sale or distribution of energy for commercial use except such energy as may be produced by the Commission incident to the operation of research and development facilities of the Commission, or of production facilities of the Commission. (Aug. 1, 1946, ch. 724, § 44, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 7 (d) of act Aug. 1, 1946, ch. 724, 60 Stat. 764 (formerly classified to section 1807 (d) of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954.

SUBCHAPTER V.—SPECIAL NUCLEAR MATERIAL

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760 (formerly classified to section 1805 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this subchapter and exemptions from licensing requirements therein contained, see section 2021 (b) and (f) of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2021 of this title.

§ 2071. Determination of other material as special nuclear material; Presidential assent; effective date.

The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Joint Committee, after having received such determination, may by resolu-

tion in writing, waive the conditions of or all or any portion of such thirty-day period. (Aug. 1, 1946, ch. 724, § 51, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2201 of this title.

§ 2072. Repealed. Pub. L. 88–489, § 4, Aug. 26, 1964, 78 Stat. 603.

Section, act Aug. 1, 1946, ch. 724, § 52, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 929, related to Government ownership of all special nuclear material, and provided for the compensation of private owners of such material.

EXTINGUISHMENT OF RIGHTS, TITLE AND INTEREST IN SPECIAL NUCLEAR MATERIAL

Section 4 of Pub. L. 88–489 provided in part that: "All rights, title, and interest in and to any special nuclear material vested in the United States solely by virtue of the provisions of the first sentence of such section 52 [formerly this section], and not by any other transaction authorized by the Atomic Energy Act of 1954, as amended [this chapter], or other applicable law, are hereby extinguished."

§ 2073. Domestic distribution of special nuclear material.

(a) Licenses.

The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this chapter.

(b) Minimum criteria for licenses.

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of special nuclear material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

(c) Manner of distribution; charges for material sold; agreements; charges for material leased.

(1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, grant, or through the provision of production or enrichment services: *Provided, however,* That unless otherwise authorized by law, the Commission shall not after December 31, 1970, distribute special nuclear material except by sale or through the provision of production or enrichment services to any person who possesses or operates a utilization facility under a license issued pursuant to section 2133 or 2134(b) of this title for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

(2) The Commission shall establish reasonable sales prices for the special nuclear material licensed and distributed by sale under this section. Such sales prices shall be established on a nondiscriminatory basis which, in the opinion of the Commission, will provide reasonable compensation to the Government for such special nuclear material.

(3) The Commission is authorized to enter into agreements with licensees for such period of time as the Commission may deem necessary or desirable to distribute to such licensees such quantities of special nuclear material as may be necessary for the conduct of the licensed activity. In such agreements, the Commission may agree to repurchase any special nuclear material licensed and distributed by sale which is not consumed in the course of the licensed activity, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission.

(4) The Commission may make a reasonable charge, determined pursuant to this section, for the use of special nuclear material licensed and distributed by lease under subsection (a) (1), (2) or (4) of this section and shall make a reasonable charge determined pursuant to this section for the use of special nuclear material licensed and distributed by lease under subsection (a) (3) of this section. The Commission shall establish criteria in writing for the determination of whether special nuclear material will be distributed by grant and for the determination of whether a charge will be made for the use of special nuclear material licensed and distributed by lease under subsection (a) (1), (2) or (4) of this section, considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the special nuclear material will be used.

(d) Determination of charges.

In determining the reasonable charge to be made by the Commission for the use of special nuclear material distributed by lease to licensees of utilization or production facilities licensed pursuant to section 2133 or 2134 of this title, in addition to consideration of the cost thereof, the Commission shall take into consideration—

(1) the use to be made of the special nuclear material;

(2) the extent to which the use of the special nuclear material will advance the development of the peaceful uses of atomic energy;

(3) the energy value of the special nuclear material in the particular use for which the license is issued;

(4) whether the special nuclear material is to be used in facilities licensed pursuant to section 2133 or 2134 of this title. In this respect, the Commission shall, insofar as practicable, make uniform, nondiscriminatory charges for the use of special nuclear material distributed to facilities licensed pursuant to section 2133 of this title; and

(5) with respect to special nuclear material consumed in a facility licensed pursuant to section 2133 of this title, the Commission shall make a further charge equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2) of this section, and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title.

(e) License conditions.

Each license issued pursuant to this section shall contain and be subject to the following conditions—

(1) Repealed. Pub. L. 88–489, § 8, Aug. 26, 1964, 78 Stat. 604.

(2) no right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter;

(4) all special nuclear material shall be subject to the right of recapture or control reserved by section 2138 of this title and to all other provisions of this chapter;

(5) no special nuclear material may be used in any utilization or production facility except in accordance with the provisions of this chapter;

(6) special nuclear material shall be distributed only on terms, as may be established by rule of the Commission, such that no user will be permitted to construct an atomic weapon;

(7) special nuclear material shall be distributed only pursuant to such safety standards as may be established by rule of the Commission to protect health and to minimize danger to life or property; and

(8) except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply, the licensee will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee.

(f) Distribution for independent research and development activities.

The Commission is directed to distribute within the United States sufficient special nuclear material to permit the conduct of widespread independent research and development activities to the maximum extent practicable. In the event that applications for special nuclear material exceed the amount available for distribution, preference shall be given to those activities which are most likely, in the opinion of the Commission, to contribute to basic research, to the development of peacetime uses of atomic energy, or to the economic and military strength of the Nation.

(Aug. 1, 1946, ch. 724, § 53, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 930, and amended Sept. 2, 1957, Pub. L. 85–256, § 2, 71 Stat. 576; Aug. 19, 1958, Pub. L. 85–681, §§ 1, 2, 72 Stat. 632; Aug. 26, 1964, Pub. L. 88–489, §§ 5–8, 78 Stat. 603, 604; Dec. 14, 1967, Pub. L. 90–190, §§ 9, 10, 81 Stat. 577.)

AMENDMENTS

1967—Subsec. (c)(1). Pub. L. 90–190, § 10, added "or through the provision of production or enrichment services" wherever appearing.

Subsec. (f). Pub. L. 90–190, § 9, struck out the reference to the limitations on the distribution of special nuclear materials set by the President in determinations made pursuant to section 2061 of this title.

1964—Subsec. (a). Pub. L. 88–489, § 5, substituted "(i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii)" for "to issue licenses for the possession of, to make available for the period of the license, and."

Subsec. (c). Pub. L. 88–489, § 6, designated existing provisions as par. (4), inserted "by lease" wherever appearing and "special nuclear material will be distributed by grant and for the determination of whether" therein, and added pars. (1)—(3).

Subsec. (d). Pub. L. 88–489, § 7, inserted "by lease" in the introductory provisions, and in ch. (5) substituted "equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2) of this section, and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title" for "based on the cost to the Commission, as estimated by the Commission, or the average fair price paid for the production of such special nuclear material as determined by section 2076 of this title, whichever is lower."

Subsec. (e)(1). Pub. L. 88–489, § 8, deleted par. (1) which provided that title to all special nuclear material shall at all times be in the United States.

1958—Subsec. (a)(4). Pub. L. 85–681, § 1 added subsec. (a)(4).

Subsec. (c). Pub. L. 85–681, § 2, substituted "subsections (a)(1), (2) or (4)" for "subsection (a)(1) or (a)(2)".

1957—Subsec. (e)(8). Pub. L. 85–256 inserted "except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply,".

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 (k) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021, 2076, 2077, 2078, 2153, 2183, 2201, 2210, 2282 of this title.

§ 2074. Foreign distribution of special nuclear material; compensation; distribution to agency; repurchase of unconsumed materials; price; purchase of materials produced outside United States; price.

The Commission is authorized to cooperate with any nation by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 2153 of this title. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the

Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such periods of time as are authorized by Congress: *Provided, however,* That, notwithstanding this provision, the Commission is authorized subject to the provisions of section 2153 of this title, to distribute to the Agency five thousand kilograms of contained uranium 235, five hundred grams of uranium 233 and three kilograms of plutonium together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to July 1, 1960. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this section which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this section. Under any such agreement, the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 2134 of this title, established by the Commission pursuant to section 2076 of this title, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission. (Aug. 1, 1946, ch. 724, § 54, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931, and amended Aug. 28, 1957, Pub. L. 85–177, § 7, 71 Stat. 455; Sept. 6, 1961, Pub. L. 87–206, § 4, 75 Stat. 476; Aug. 26, 1964, Pub. L. 88–489, § 9, 78 Stat. 604.)

AMENDMENTS

1964—Pub. L. 88–489 authorized the repurchase of unconsumed special nuclear materials, or any uranium remaining after irradiation of such materials, at a price not exceeding the Commission's sale price for comparable material in effect at the time of delivery to the Commission, and the purchase of special nuclear material produced outside the United States through the use of material leased or sold under this section, during any period when there is a guaranteed purchase price for the same material as produced under section 2134 of this title, for such price as estabilshed by the Commission.

1961—Pub. L. 87–206 inserted "five hundred grams of uranium 233 and three kilograms of plutonium" following "five thousand kilograms of contained uranium 235."

1957—Pub. L. 85–177 amended section added provisions requiring compensation at domestic charges for materials distributed abroad except for peaceful or medical therapy uses, and required Commission to obtain authorization of Congress for materials to be contributed to the Agency beyond the amount made available by all other members of the Agency to July 1, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2075, 2077, 2153, 2154, 2294 of this title.

§ 2075. Acquisition of special nuclear material; payments; just compensation.

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to purchase without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section. (Aug. 1, 1946, ch. 724, § 55, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931, and amended Aug. 26, 1964, Pub. L. 88–489, § 10, 78 Stat. 604.)

AMENDMENTS

1964—Pub. L. 88–489 limited the authorization to the extent necessary to effectuate the chapter, inserted "without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn," and "Any contract of purchase made under this section may be made", provided for just compensation for any right, property, or interest taken, requisitioned, or condemned under this section, and deleted "outside the United States" which followed "any interest therein."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2076. Guaranteed purchase prices.

The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 2134 of this title and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary, but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 2133 or section 2134 and delivered to the Commission within the period of the guarantee. Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided,* That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to

section 2073 of this title. (Aug. 1, 1946, ch. 724, § 56, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 931, and amended Aug. 26, 1964, Pub. L. 88–489, § 11, 78 Stat. 605; Dec. 19, 1970, Pub. L. 91–560, § 2, 84 Stat. 1472.)

AMENDMENTS

1970—Pub. L. 91–560 extended the power of the Commission to establish guaranteed purchase prices for uranium produced by persons licensed under section 2133 of this title.

1964—Pub. L. 88–489 substituted provisions which directed the Commission to establish guaranteed purchase prices for plutonium produced by a person licensed under section 2134 of this title and delivered to the Commission prior to Jan. 1, 1971, and for uranium enriched in the isotope 233, for such periods of time as it deems necessary, but not exceeding ten years as to any such period, if produced by a person licensed under said section 2134, and delivered within the period of the guarantee, provided that guaranteed prices established under this section shall not exceed the Commission's estimated value of enriched plutonium or uranium as fuel in reactors, and shall be on a nondiscriminatory basis, and authorized such guaranteed prices only for such enriched plutonium or uranium as is produced through use of material leased or sold pursuant to section 2073 of this title, for provisions requiring the Commission to determine the fair price of special nuclear material by considering the value of the material for its intended use by the United States, and by giving such weight to the cost of production as it found to be equitable, providing that such price was to apply to all licensed producers of the same material, and permitting the Commission to establish guaranteed fair prices for all such material delivered to the Commission for such time as it deemed necessary, but not exceeding seven years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2074, 2075, 2078, of this title.

§ 2077. Unauthorized dealings in special nuclear material.

(a) Handling by persons.

Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue pursuant to section 2073 of this title, no person may transfer or receive in interstate commerce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

(b) Production by persons.

It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 2153 of this title, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

(c) Distribution by Commission.

The Commission shall not—

(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 2074 of this title; or

(2) distribute any special nuclear material or issue a license pursuant to section 2073 of this title to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

(Aug. 1, 1946, ch. 724, § 57, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932, and amended Aug. 26, 1964, Pub. L. 88–489, § 12, 78 Stat. 605.)

AMENDMENTS

1964—Pub. L. 88–489 amended section generally, and among other changes, included all special nuclear materials within the section, eliminated the condition that such material be "the property of the United States", included delivery, acquisition, ownership and receiving possession of or title to any special nuclear material within the acts prohibited to persons, prohibited the Commission from issuing a license pursuant to section 2073 of this title if the Commission finds that the issuance would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public, and extended the power of the Commission to refuse to distribute any special nuclear material if it finds that the distribution would constitute a nunreasonable risk to the health and safety of the public.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2121, 2153, 2154, 2201, 2272, 2282 of this title.

§ 2078. Congressional review of guaranteed purchase price, guaranteed purchase price period, and criteria for waiver of charges.

Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 2076 of this title, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 2073 of this title, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Joint Committee and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period. (Aug. 1, 1946, ch. 724, § 58, as added July 3, 1957, Pub. L. 85–79, § 2, 71 Stat, 275, and amended Aug. 26, 1964, Pub. L. 88–489, § 13, 78 Stat. 605.)

AMENDMENTS

1964—Pub. L. 88–489 substituted "guaranteed purchase" and "purchase" for "fair" wherever appearing, "licensed and distributed" for "licensed or distributed", and provided that the Joint Committee resolution waiving the conditions of the forty-five-day period must be in writing.

SUBCHAPTER VI.—SOURCE MATERIAL

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760 (formerly classified to section 1805 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this subchapter and exemptions from licensing requirements therein contained, see section 2021 (b) and (f) of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2021 of this title.

§ 2091. Determination of source material.

The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Joint Committee, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period. (Aug. 1, 1946, ch. 724, § 61, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2201 of this title; title 30 section 541e.

§ 2092. License requirements for transfers.

Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant. (Aug. 1, 1946, ch. 724, § 62, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 932.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2121, 2183, 2282 of this title.

§ 2093. Domestic distribution of source material.

(a) License.

The Commission is authorized to issue licenses for and to distribute source material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title; or

(4) for any other use approved by the Commission as an aid to science or industry.

(b) Minimum criteria for licenses.

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of source material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the source material to be distributed;

(2) the quantities of source material to be distributed; and

(3) the intended use of the source material to be distributed.

(c) Determination of charges.

The Commission may make a reasonable charge determined pursuant to section 2201 (m) of this title for the source material licensed and distributed under subsection (a) (1), (a) (2), or (a) (4) of this section and shall make a reasonable charge determined pursuant to section 2201 (m) of this title, for the source material licensed and distributed under subsection (a) (3) of this section. The Commission shall establish criteria in writing for the determination of whether a charge will be made for the source material licensed and distributed under subsection (a) (1), (a) (2), or (a) (4) of this section, considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the source material will be used. (Aug. 1, 1946, ch. 724, § 63, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210(k) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2210 of this title.

§ 2094. Foreign distribution of source material.

The Commission is authorized to cooperate with any nation by distributing source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 2153 of this title. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that such activity will not be inimical to the interests of the United States. (Aug. 1, 1946, ch. 724, § 64, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2153, 2154 of this title.

§ 2095. Reports.

The Commission is authorized to issue such rules, regulations, or orders requiring reports of ownership, possession, extraction, refining, shipment, or other handling of source material as it may deem necessary, except that such reports shall not be required with respect to (a) any source material prior to removal from its place of deposit in nature, or (b) quantities of source material which in the opinion of the Commission are unimportant or the reporting of which will discourage independent

prospecting for new deposits. (Aug. 1, 1946, ch. 724, § 65, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2273 of this title.

§ 2096. Acquisition of source material; payments.

The Commission is authorized and directed, to the extent it deems necessary to effectuate the provisions of this chapter—

(a) to purchase, take, requisition, condemn, or otherwise acquire supplies of source material;

(b) to purchase, condemn, or otherwise acquire any interest in real property containing deposits of source material; and

(c) to purchase, condemn, or otherwise acquire rights to enter upon any real property deemed by the Commission to have possibilities of containing deposits of source material in order to conduct prospecting and exploratory operations for such deposits.

Any purchase made under this section may be made without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advanced payments may be made under contracts for such purposes. The Commission may establish guaranteed prices for all source material delivered to it within a specified time. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, condemned, or otherwise acquired under this section. (Aug. 1, 1946, ch. 724, § 66, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 933.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2097. Operations on lands belonging to the United States.

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to issue leases or permits for prospecting for, exploration for, mining of, or removal of deposits of source material in lands belonging to the United States: *Provided, however,* That notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President by Executive Order declares that the requirements of the common defense and security make such action necessary. (Aug. 1, 1946, ch. 724, § 67, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is refererd to in section 2183 of this title.

§ 2098. Public and acquired lands.

(a) Conditions on location, entry, and settlement.

No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to August 30, 1954, made such location, entry, or settlement or caused the same to be made for his, or its, or their benefit.

(b) Reservation of mineral rights; release.

Any reservation of radioactive mineral substances, fissionable materials, or source material, together with the right to enter upon the land and prospect for, mine, and remove the same, inserted pursuant to Executive Order 9613 of September 13, 1945, Executive Order 9701 of March 4, 1946, the Atomic Energy Act of 1946, or Executive Order 9908 of December 5, 1947, in any patent, conveyance, lease, permit, or other authorization or instrument disposing of any interest in public or acquired lands of the United States, is released, remised, and quitclaimed to the person or persons entitled upon August 19, 1958 under the grant from the United States or successive grants to the ownership, occupancy, or use of the land under applicable Federal or State laws: *Provided, however,* That in cases where any such reservation on acquired lands of the United States has been heretofore released, remised, or quitclaimed subsequent to August 12, 1954, in reliance upon authority deemed to have been contained in the Atomic Energy Act of 1946, as amended, or this chapter, as heretofore amended, the same shall be valid and effective in all respects to the same extent as if public lands and not acquired lands had been involved. The foregoing release shall be subject to any rights which may have been granted by the United States pursuant to any such reservation, but the releasees shall be subrogated to the rights of the United States.

(c) Prior locations.

Notwithstanding the provisions of the Atomic Energy Act of 1946, as amended, and particularly section 5 (b) (7) thereof, or the provisions of sections 501 to 505 of Title 30, and particularly section 503 of Title 30, any mining claim, heretofore located under the mining laws of the United States, for or based upon a discovery of a mineral deposit which is a source material and which, except for the possible contrary construction of said Atomic Energy Act, would have been locatable under such mining laws, shall, insofar as adversely affected by such possible contrary construction, be valid and effective, in all respects to the same extent as if said mineral deposit were a locatable mineral deposit other than a source material. (Aug. 1, 1946, ch. 724, § 68, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934, and amended Aug. 19, 1958, Pub. L. 85-681, § 3, 72 Stat. 632.)

REFERENCES IN TEXT

The Atomic Energy Act of 1946, referred to in subsecs. (b) and (c), was formerly classified to chapter 14 of this title and the provisions are now covered by this chapter.

Ex. Ord. No. 9908, Dec. 5, 1947, 12 F. R. 8223; Ex. Ord. No. 9701, Mar. 7, 1946, 11 F. R. 2369, and Ex. Ord. No. 9613, Sept. 13, 1945, 10 F.R. 11789, referred to in subsec. (b), related to reservation of source material in certain lands owned by the United States; reservation of rights to fis-

sionable materials in lands owned by the United States; and withdrawal and reservation for the use of the United States lands containing radio-active mineral substances. Ex. Ord. No. 10596, Feb. 15, 1955, 20 F.R. 1007, revoked Ex. Ord. No. 9908, which had revoked Ex. Ord. No. 9701, which had earlier revoked Ex. Ord. No. 9613.

Section 5 (b) (7) thereof, referred to in subsec. (c), was formerly classified to section 1805 (b) (7) of this title and the provisions are now covered by this section.

AMENDMENTS

1958—Subsec. (b). Pub. L. 85-681 provided a general release of reservations of fissionable materials or source materials under acquired lands of the United States as well as public lands.

§ 2099. Prohibitions against issuance of license.

The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public. (Aug. 1, 1946, ch. 724, § 69, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 934.)

SUBCHAPTER VII.—BYPRODUCT MATERIALS

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 5 of act Aug. 1 1946, ch. 724, 60 Stat. 760 (formerly classified to section 1805 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act of Aug. 30, 1954, ch. 1073, 68 Stat. 921.

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this subchapter and exemptions from licensing requirements therein contained, see section 2021 (b) and (f) of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2021 of this title.

§ 2111. Domestic distribution; license; price limitations.

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section or by section 2112 of this title. The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to licensees with or without charge: *Provided, however,* That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public. (Aug. 1, 1946, ch. 724, § 81, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 935.)

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 (k) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2121, 2183, 2201, 2210, 2202 of this title.

§ 2112. Foreign distribution of byproduct material.

(a) Cooperation with other Nations.

The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party and which is made in accordance with section 2153 of this title.

(b) Distribution to individuals.

The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such material as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

(c) Distributor's license.

The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission. (Aug. 1, 1946, ch. 724, § 82, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 935.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2111, 2153, 2154, 2282 of this title.

SUBCHAPTER VIII.—MILITARY APPLICATION OF ATOMIC ENERGY

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 6 of act Aug. 1, 1946, ch. 724, 60 Stat. 763 (formerly classified to section 1806 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2121. Authority of Commission.

(a) Research and development; production of atomic weapons.

The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy; and

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year.

(b) Material for Department of Defense use.

The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however,* That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

(c) Sale, lease, or loan to other Nations of materials for military applications.

The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 2077, 2092, or 2111 of this title, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation. (Aug 1, 1946, ch. 724, § 91, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended July 2, 1958, Pub. L. 85–479, § 1, 72 Stat. 276.)

AMENDMENTS

1958—Subsec. (c). Pub. L. 85–479 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2122, 2131, 2140, 2153 of this title.

§ 2122. Prohibitions governing atomic weapons.

It shall be unlawful, except as provided in section 2121 of this title, for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon. Nothing in this section shall be deemed to modify the provisions of section 2051 (a) or 2131 of this title. (Aug. 1, 1946, ch. 724, § 92, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended July 2, 1958, Pub. L. 85–479, § 2, 72 Stat. 277.)

AMENDMENTS

1958—Pub. L. 85–479 included transfers or receipts in foreign commerce.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2272 of this title.

SUBCHAPTER IX.—ATOMIC ENERGY LICENSES

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 7 of act Aug. 1, 1946, ch. 724, 60 Stat. 764 (formerly classified to section 1807 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2131. License required.

It shall be unlawful, except as provided in section 2121 of this title, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license

issued by the Commission pursuant to section 2133 or 2134 of this title. (Aug. 1, 1946, ch. 724, § 101, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended Aug. 6, 1956, ch. 1015, § 11, 70 Stat. 1071.)

AMENDMENTS

1958—Act Aug. 6, 1956, inserted the word "use," between the words "possess," and "import".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2122, 2139, 2272, 2282 of this title.

§ 2132. Utilization and production facilities for industrial or commercial purposes.

(a) Except as provided in subsections (b) and (c) of this section, or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 2133 of this title.

(b) Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to section 2134(b) of this title prior to enactment into law of this subsection, shall be issued under section 2134(b) of this title.

(c) Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under section 2134(b) of this title. (Aug. 1, 1964, ch. 724, § 102, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended Dec. 19, 1970, Pub. L. 91-560, § 3, 84 Stat. 1472.)

AMENDMENTS

1970—Pub. L. 91-560 substituted provisions authorizing the Commission to issue licenses for a utilization or production facility for industrial or commercial purposes under section 2133, except that license may be issued under section 2134(b), for such utilization or production facility, the construction or operation of which was licensed under section 2134(b) before December 19, 1970 or constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program, for provisions authorizing the Commission to issue licenses pursuant to section 2133 of this title on a determination that such utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2133, 2134, 2201 of this title.

§ 2133. Commercial licenses.

(a) Conditions.

The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, utilization or production facilities for industrial or commercial purposes. Such licenses shall be issued in accordance with the provisions of subchapter XV of this chapter and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this chapter.

(b) Nonexclusive basis.

The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

(c) License period.

Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years, and may be renewed upon the expiration of such period.

(d) Limitations.

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title, or except under the provisions of section 2139 of this title. No license may be issued to an alien or any [1] any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public. (Aug. 1, 1946, ch. 724, § 103, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936, and amended Aug. 6, 1956, ch. 1015, §§ 12, 13, 70 Stat 1071; Dec. 19, 1970, Pub. L. 91-560, § 4, 84 Stat. 1472.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-560 eliminated the requirement of a finding of practical value under section 2132 and substituted "utilization and production facilities for industrial or commercial purposes" for "such type of utilization or production facility".

1956—Subsec. (a). Act Aug. 6, 1956, § 12, inserted the word "use," between the words "possess," and "import".

Subsec. (d). Act Aug. 6, 1956, § 13, inserted the words "an alien or any" between the words "issued to" and the words "any corporation".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2019, 2020, 2061, 2073, 2076, 2093, 2131, 2132, 2134, 2135, 2136, 2138, 2153, 2154, 2165, 2183, 2201, 2209, 2210, 2232, 2239, 2282 of this title.

§ 2134. Medical therapy, research, and development licenses; limitations.

(a) The Commission is authorized to issue licenses to persons applying therefor for utilization

[1] So in original.

facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public.

(b) As provided for in subsection (b) or (c) of section 2132 of this title, or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this chapter.

(c) The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title and which are not facilities of the type specified in subsection (b) of this section. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

(d) No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title or except under the provisions of section 2139 of this title. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public. (Aug. 1, 1946, ch. 724, § 104, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 937, and amended Dec. 19, 1970, Pub. L. 91-560, § 5, 84 Stat. 1472.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-560 substituted provisions authorizing the issue of licenses for utilization or production facilities for industrial or commercial purposes (i) where specifically authorized by law or (ii) where the facility was constructed or operated under an arrangement with the Commission entered into under the cooperative power reactor demonstration program, and the applicable statutory authorization does not require licensing under section 2133, or (iii) where the facility was theretofore licensed under section 2134(b), for provisions authorizing the issue of licenses for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial and commercial purposes.

CROSS REFERENCES

Nonprofit educational institution exempt from financial protection requirement, see section 2210 (k) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2061, 2073, 2074, 2076, 2093, 2131, 2132, 2135, 2136, 2138, 2153, 2154, 2165, 2183, 2201, 2209, 2210, 2232, 2239, 2282 of this title.

§ 2135. Anti-trust provisions governing licenses; reports to Attorney General.

(a) Nothing contained in this chapter shall relieve any person from the operation of sections 1 to 13, 14 to 19, 20, 21, 22 to 27, 41 to 46, and 47 to 58 of Title 15 and sections 52 and 53 of Title 29. In the even a licensee is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the sections cited above, to have violated any of the provisions of such sections in the conduct of the licensed activity, the Commission may suspend, revoke, or take such other action as it may deem necessary with respect to any license issued by the Commission under the provisions of this chapter.

(b) The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate or to tend toward the violation of any of the foregoing sections, or to restrict free competition in private enterprise.

(c) (1) The Commission shall promptly transmit to the Attorney General a copy of any license application provided for in paragraph (2) of this subsection, and a copy of any written request provided for in paragraph (3) of this subsection; and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such application or written request, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

(2) Paragraph (1) of this subsection shall apply to an application for a license to construct or operate a utilization or production facility under section 2133 of this title: *Provided, however,* That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 2133 of this title unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

(3) With respect to any Commission permit for the construction of a utilization or production facility issued pursuant to subsection (b) of section 2134 of this title prior to December 19, 1970, any person who intervened or who sought by timely written notice to the Commission to intervene in the con-

struction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination shall have the right, upon a written request to the Commission, to obtain an antitrust review under this section of the application for an operating license. Such written request shall be made within 25 days after the date of initial Commission publication in the Federal Register of notice of the filing of an application for an operating license for the facility or December 19, 1970, whichever is later.

(4) Upon the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

(5) Promptly upon receipt of the Attorney General's advice, the Commission shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Commission on such licensing matter in connection with the subject matter of his advice. The Commission shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws as specified in subsection (a) of this section.

(6) In the event the Commission's finding under paragraph (5) is in the affirmative, the Commission shall also consider, in determining whether the license should be issued or continued, such other factors, including the need for power in the affected area, as the Commission in its judgment deems necessary to protect the public interest. On the basis of its findings, the Commission shall have the authority to issue or continue a license as applied for, to refuse to issue a license, to rescind a license or amend it, and to issue a license with such conditions as it deems appropriate.

(7) The Commission, with the approval of the Attorney General, may except from any of the requirements of this subsection such classes or types of licenses as the Commission may determine would not significantly affect the applicant's activities under the antitrust laws as specified in subsection (a) of this section.

(8) With respect to any application for a construction permit on file at the time of enactment into law of this subsection, which permit would be for issuance under section 2133 of this title, and with respect to any application for an operating license in connection with which a written request for an antitrust review is made as provided for in paragraph (3), the Commission, after consultation with the Attorney General, may, upon determination that such action is necessary in the public interest to avoid unnecessary delay, establish by rule or order periods for Commission notification and receipt of advice differing from those set forth above and may issue a construction permit or operating license in advance of consideration of and findings with respect to the matters covered in this subsection: *Provided,* That any construction permit or operating license so issued shall contain such conditions as the Commission deems appropriate to assure that any subsequent findings and orders of the Commission with respect to such matters will be given full force and effect. (Aug. 1, 1946, ch. 724, § 105, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 938, and amended Aug. 26, 1964, Pub. L. 88–489, § 14, 78 Stat. 606; Dec. 19, 1970, Pub. L. 91–560, § 6, 84 Stat. 1473.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–560 designated existing provisions as pars. (1), (2), (4) and (5) and amended such provisions by extending the time for the Attorney General to give advice from 90 to 180 days and provided for review of licenses once granted under section 2133 of this title, and when the Attorney General recommends that there be a hearing, authorized the Commission to hold hearings and permit the Attorney General to appear as a party and to make a finding as to whether the activities under the license would be inconsistent with the antitrust laws, and in par. (3), provided for a review of the permit issued under section 2134(b) of this title, and added pars. (6), (7) and (8).

1964—Subsec. (a). Pub. L. 88–489 eliminated ", including the provisions which vest title to all special nuclear material in the United States," preceding "shall relieve any person."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2188, 2201 of this title.

§ 2136. Classes of facilities.

The Commission may—

(a) group the facilities licensed either under section 2133 or 2134 of this title into classes which may include either production or utilization facilities or both, upon the basis of the similarity of operating and technical characteristics of the facilities;

(b) define the various activities to be carried on at each such class of facility; and

(c) designate the amounts of special nuclear material available for use by each such facility. (Aug. 1, 1946, ch. 724, § 106, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 938.)

§ 2137. Operators' licenses.

The Commission shall—

(a) prescribe uniform conditions for licensing individuals as operators of any of the various classes of production and utilization facilities licensed in this chapter;

(b) determine the qualifications of such individuals;

(c) issue licenses to such individuals in such form as the Commission may prescribe; and

(d) suspend such licenses for violations of any provision of this chapter or any rule or regulation issued thereunder whenever the Commission deems such action desirable. (Aug. 1, 1946, ch. 724, § 107, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2282 of this title.

§ 2138. Suspension of licenses during war or national emergency.

Whenever the Congress declares that a state of war or national emergency exists, the Commission

is authorized to suspend any licenses granted under this chapter if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material or to order the operation of any facility licensed under section 2133 or 2134 of this title, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facility. (Aug. 1, 1946, ch. 724, § 108, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939, and amended Sept. 23, 1959, Pub. L. 86–373, § 2, 73 Stat. 691.)

AMENDMENTS

1959—Pub. L. 86–373 deleted "distributed under the provisions of section 2073(a) of this title," preceding "or to order."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2073, 2201, 2221, 2233, 2272 of this title.

§ 2139. General licenses; export licenses.

With respect to those utilization and production facilities which are so determined by the Commission pursuant to section 2014(v)(2) or 2014(cc)(2) of this title the Commission may (a) issue general licenses for activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security, and (b) issue licenses for the export of such facilities, if the Commission determines in writing that each export will not constitute an unreasonable risk to the common defense and security. (Aug. 1, 1946, ch. 724, § 109, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939, and amended Aug. 29, 1962, Pub. L. 87–615, § 9, 76 Stat. 411; Oct. 13, 1966, Pub. L. 89–645, § 1(b), 80 Stat. 891.)

AMENDMENTS

1966—Pub. L. 89–645 substituted "2014(v)(2) or 2014(cc)(2)" for "2014(t)(2) or 2014(aa)(2)".

1962—Pub. L. 87–615 substituted "section 2014(t)(2) or 2014(aa)(2)" for "section 2014(p)(2) or 2014(v)(2)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2133, 2134, 2282 of this title.

§ 2140. Exclusions from license requirement.

Nothing in this subchapter shall be deemed—

(a) to require a license for (1) the processing, fabricating, or refining of special nuclear material, or the separation of special nuclear material, or the separation of special nuclear material from other substances, under contract with and for the account of the Commission; or (2) the construction or operation of facilities under contract with and for the account of the Commission; or

(b) to require a license for the manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 2121 of this title, or for the use of such facility by the Department of Defense or a contractor thereof. (Aug. 1, 1946, ch. 724, § 110, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

SUBCHAPTER X.—INTERNATIONAL ACTIVITIES

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 8 of act Aug. 1, 1946, ch. 724, 60 Stat. 765 (formerly classified to section 1808 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2151. Effect of international arrangements.

Any provision of this chapter or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangement made after August 30, 1954 shall be deemed to be of no force or effect. (Aug. 1, 1946, ch. 724, § 121, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

§ 2152. Policies contained in international arrangements.

In the performance of its functions under this chapter, the Commission shall give maximum effect to the policies contained in any international arrangement made after August 30, 1954. (Aug. 1, 1946, ch. 724, § 122, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 939.)

§ 2153. Cooperation with other nations.

No cooperation with any nation or regional defense organization pursuant to sections 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

(a) Submission of agreements to President.
the Commission or, in the case of those agreements for cooperation arranged pursuant to section 2121 (c) or 2164 (b), of this title which are to be implemented by the Department of Defense, the Department of Defense has submitted to the President the proposed agreement for cooperation, together with its recommendations thereon, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; (3) except in the case of those agreements for cooperation arranged pursuant to section 2121 (c) of this title, a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons or for any other military purpose; and (4) a guaranty by the cooperating party that any material or any Restricted Data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation;

(b) Presidential approval and authorization.
the President has approved and authorized the execution of the proposed agreement for cooperation, and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security;

(c) Submission to Joint Committee; waiting period. the proposed agreement for cooperation, together with the approval and the determination of the President, has been submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *Provided, however,* That the Joint Committee, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period;

(d) Submission to the Congress.
the proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to section 2121 (c), 2164 (b), or 2164 (c) of this title, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while Congress is in session, but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided, however,* That during the Eighty-fifth Congress such period shall be thirty days (in computing such sixty days, or thirty days, as the case may be, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days). (Aug. 1, 1956, ch. 724, § 123, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940, and amended July 2, 1958, Pub. L. 85–479, §§ 3, 4, 72 Stat. 277; Aug. 19, 1958, Pub. L. 85–681, § 4, 72 Stat. 632; Aug. 26, 1964, Pub. L. 88–489, § 15, 78 Stat. 606.)

AMENDMENTS

1964—Pub. L. 88–489 inserted the reference to section 2073.

1958—Pub. L. 85–479, § 3, inserted a reference to section 2121 of this title in opening par.

Subsec. (a). Pub. L. 85–479, § 3, included agreements for cooperation arranged pursuant to section 2121(c) of this title, and inserted in cl. (3) the exception in the case of agreements arranged pursuant to section 2121(c) of this title.

Subsec. (c). Pub. L. 85–681 added proviso clause relating to waiver waiting period.

Subsec. (d). Pub. L. 85–479, § 4 added subsec. (d).

COOPERATION WITH BERLIN

Act Aug. 1, 1946, ch. 724, § 125, as added by Pub. L. 85–14, Apr. 12, 1957, 71 Stat. 11, provided that: "The President may authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with section 123 [this section], on behalf of Berlin, which for the purposes of this Act comprises those areas over which the Berlin Senate exercises jurisdiction (the United States, British, and French sectors) and the Commission may thereafter cooperate with Berlin pursuant to sections 54, 57, 64, 82, 103, or 104 [sections 2074, 2077, 2094, 2112, 2133, or 2134 of this title]: *Provided,* That the guaranties required by section 123 [this section] shall be made by Berlin with the approval of the allied commandants."

EX. ORD. NO. 10841. INTERNATIONAL COOPERATION

Ex. Ord. No. 10841, Sept. 30, 1959, 24 F.R. 7941, as amended by Ex. Ord. No. 10956, Aug. 10, 1961, 26 F.R. 7315, provided:

SECTION 1. Whenever the President, pursuant to section 123 of the Act [this section], has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act [sections 2121(c), 2164(a), 2164(b), 2164 (c) of this title], such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c [sections 2121(c), 2164(a), 2164(b), or 2164(c) of this title], as pertinent. In respect of sections 91c, 144b, and 144c [sections 2121(c), 2164(b), and 2164(c) of this title], authorizations by the President to cooperate shall be subject to the requirements of sections 123d of the Act [subsec. (d) of this section] and shall also be subject to appropriate determinations made pursuant to section 2 of this order

SEC. 2. (a) The Secretary of Defense and the Atomic Energy Commission are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following-described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act [section 2121(c) of this title] to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act [section 2164(b) of this title] to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security: *Provided,* That each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.

(3) The authority vested in the President by section 144c of the Act [section 2164(c) of this title] to determine that the proposed cooperation and the communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Atomic Energy Commission are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

SEC. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act [section 2121(c) of this title] of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act [this chapter] shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act [this chapter] shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

DWIGHT D. EISENHOWER

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, 2164, 2201, 2291, 2294, 2295 of this title.

§ 2154. International atomic pool.

The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 2074, 2077, 2094, 2112, 2133, 2134, or 2164 (a) of this title: *Provided, however,* That the cooperation is undertaken pursuant to an

agreement for cooperation entered into in accordance with section 2153 of this title. (Aug. 1, 1946, ch. 724, § 124, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940.)

CROSS REFERENCES

Foreign research reactor projects, see section 2171(c) of Title 22, Foreign Relations and Intercourse.

SUBCHAPTER XI.—CONTROL OF INFORMATION

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 10 of act Aug. 1, 1946, ch. 724, 60 Stat. 755 (formerly classified to section 1810 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2161. Policy of Commission.

It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(a) Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 2164 of this title; and

(b) The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information. (Aug. 1, 1946, ch. 724, § 141, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 940.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2166, 2210 of this title.

§ 2162. Classification and declassification of Restricted Data.

(a) Periodic determination.

The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

(b) Continuous review.

The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

(c) Joint determination on atomic weapons; Presidential determination on disagreement.

In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

(d) Same; removal from Restricted Data category.

The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with section 2164 (b) of this title.

(e) Joint determination on atomic energy programs.

The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 403 (d) of Title 50 and can be adequately safeguarded as defense information. (Aug. 1, 1946, ch. 724, § 142, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941.)

EX. ORD. NO. 10899. COMMUNICATION OF RESTRICTED DATA BY CENTRAL INTELLIGENCE AGENCY

Ex. Ord. No. 10899, Dec. 9, 1960, 25 F.R. 12729, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq.*) [this chapter], and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144 a, b, or c of the act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) [subsection (d) of this section] as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

DWIGHT D. EISENHOWER

EX. ORD. NO. 11057. COMMUNICATION OF RESTRICTED DATA BY DEPARTMENT OF STATE

Ex. Ord. No. 11057, Oct. 18, 1962, 27 F.R. 10289, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to

as the Act; 42 U.S.C. 2011 et seq.) [this chapter], and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the act (42 U.S.C. 2164(b)), such restricted data and data removed from the restricted data category under subsection 142d of the act (42 U.S.C. 2162(d)) [subsec. (d) of this section] as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

JOHN F. KENNEDY

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2166, 2210 of this title.

§ 2163. Access to Restricted Data.

The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165 (b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however,* That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further,* That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title. (Aug. 1, 1946, ch. 724, § 143, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941, and amended Aug. 6, 1956, ch. 1015, § 14, 70 Stat. 1071; Sept. 6, 1961, Pub. L. 87-206, § 5, 75 Stat. 476.)

AMENDMENTS

1961—Pub. L. 87-206 inserted the reference to subsection (c) of section 2165 of this title.

1956—Act Aug. 6, 1956, inserted between the words "licensee of the Commission" and the words "to permit any employee" the words "or any other person authorized access to Restricted Data by the Commission under section 2165(b) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2166, 2210, 2455 of this title.

§ 2164. International cooperation.

(a) By Commission.

The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

(1) refining, purification, and subsequent treatment of source material;

(2) civilian reactor development;

(3) production of special nuclear material;

(4) health and safety;

(5) industrial and other applications of atomic energy for peaceful purposes; and

(6) research and development relating to the foregoing:

Provided, however, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

(b) By Department of Defense.

The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

(1) the development of defense plans;

(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(c) Exchange of information concerning atomic weapons; research, development, or design, of military reactors.

In addition to the cooperation authorized in subsections (a) and (b) of this section, the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided,* That

communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(d) Communication of data by other Governmental agencies.

The President may authorize any agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection (a), (b), or (c) of this section, such Restricted Data as is determined to be transmissible under the agreement for cooperation involved. (Aug. 1, 1946, ch. 724, § 144, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended July 2, 1958, Pub. L. 85–479, §§ 5—7, 72 Stat. 278.)

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–479, § 5, substituted "civilian reactor development" for "reactor development" in cl. (2).

Subsec. (b). Pub. L. 85–479, § 6, authorized communication of design information, of data concerning other military applications of atomic energy necessary for the training of personnel or for the evaluation of the capabilities of potential enemies, and of data necessary to the development of compatible delivery systems for atomic weapons, and eliminated provisions which prohibited communication of data which would reveal important information concerning the design or fabrication of the nuclear components of atomic weapons.

Subsecs. (c) and (d). Pub. L. 85–479, § 7, added subsecs. (c) and (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2153, 2154, 2161, 2162, 2166, 2210 of this title.

§ 2165. Security restrictions.

(a) On contractors and licensees.

No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(b) Employment of personnel; access to Restricted Data.

Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(c) Acceptance of investigation and clearance granted by other Government agencies.

In lieu of the investigation and report to be made by the Civil Service Commission pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

(d) Investigations by FBI.

In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.

(e) Presidential investigation.

If the President deems it to be in the national interest he may from time to time determine that investigations of any group or class which are required by subsections (a), (b), and (c) of this section be made by the Federal Bureau of Investigation.

(f) Certification of specific positions for investigation by FBI.

Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.

(g) Investigation standards.

The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to

the common defense and security of the restricted data to which access will be permitted.

(h) War time clearance.

Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section, to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security. (Aug. 1, 1946, ch. 724, § 145, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended Aug. 19, 1958, Pub. L. 85-681, § 5, 72 Stat. 633; Sept. 6, 1961, Pub. L. 87-206, § 6, 75 Stat. 476; Aug. 29, 1962, Pub. L. 87-615, § 10, 76 Stat. 411.)

AMENDMENTS

1962—Subsec. (f). Pub. L. 87-615 deleted the comma following "investigation".

1961—Subsec. (c). Pub. L. 87-206 added subsec. (c) Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 87-206 redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 87-206 redesignated former subsec (d) as (e) and amended the provisions by substituting "determine that" for "cause investigations", inserting reference to subsection (c) of this section and eliminating "instead of by the Civil Service Commission" following "Federal Bureau of Investigation." Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87-206 redesignated former subsec (e) as (f) and amended the provisions by inserting reference to subsection (c) of this section and eliminating "instead of by the Civil Service Commission" following "Federal Bureau of Investigation." Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 87-206 redesignated former subsec. (f) as (g) and amended the provisions by substituting " , the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security" for "to be made by the Civil Service Commission pursuant to subsections (a) and (b) of this section." Former subsec. (g) redesignated (h)

Subsec. (h). Pub. L. 87-206 redesignated former subsec (g) as (h).

1958—Subsec. (g). Pub. L. 85-681 added subsec. (g).

CROSS REFERENCE

Arms control and disarmament security restrictions, see section 2585 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2163, 2166, 2201, 2210, 2455 of this title; title 22 section 2585.

§ 2166. Applicability of other laws.

(a) Sections 2161 to 2165 of this title shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of those sections.

(b) The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law. (Aug. 1, 1946, ch. 724, § 146, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2210 of this title.

SUBCHAPTER XII.—PATENTS AND INVENTIONS

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 11 of act Aug. 1, 1946, ch. 724, 60 Stat. 768 (formerly classified to section 1811 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2181. Inventions relating to atomic weapons, and filing of reports.

(a) Denial of patent; revocation of prior patents.

No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is revoked, and just compensation shall be made therefor.

(b) Denial of rights; revocation of prior rights.

No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

(c) Report of invention to Commissioner of Patents.

Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Commissioner of Patents by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

(d) Report to Commission by Commissioner of Patents.

The Commissioner of Patents shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries required to be reported under subsection (c) of this section, and shall provide the Commission access to all such applications.

(e) Confidential information; circumstances permitting disclosure.

Reports filed pursuant to subsection (c) of this section, and applications to which access is provided under subsection (d) of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission. (Aug. 1, 1946, ch. 724, § 151, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943, and amended Sept. 6, 1961, Pub. L. 87-206, §§ 7, 8, 9, 75 Stat. 477.)

AMENDMENTS

1961—Pub. L. 87-206, § 7, substituted provision concerning inventions relating to atomic weapons and filing of reports for provision relating to military utilization, in the catchline.

Subsec. (c). Pub. L. 87-206, § 8, eliminated designation as clause (1) of provision relating to production or utilization of special nuclear material or atomic energy and clauses (2) and (3) relating to utilization of special nuclear material in an atomic weapon and utilization of atomic energy in an atomic weapon, respectively, and substituted "the one hundred and eightieth day" for "whichever of the following is the later: either the ninetieth day after completion of such invention or discovery; or the ninetieth day."

Subsec. (e). Pub. L. 87-206, § 9, added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2187, 2190 of this title.

§ 2182. Inventions conceived during Commission contracts; ownership; waiver; hearings.

Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Commissioner of Patents (unless the Commission advises the Commissioner of Patents that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Commissioner of Patents shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Commissioner of Patents may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within 90 days after receipt of copies of the application and statement, directs the Commissioner of Patents to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Commissioner of Patents, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before a Board of Patent Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Commissioner of Patents. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the Court of Customs and Patent Appeals in accordance with the procedures governing the appeals from the Board of Patent Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Commissioner of Patents in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Commissioner of Patents for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant. (Aug. 1, 1946, ch. 724, § 152, as added, Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 944, and amended Sept. 6, 1961, Pub. L. 87-206, § 10, 75 Stat. 477; Aug. 29, 1962, Pub. L. 87-615, § 11, 76 Stat. 411.)

AMENDMENTS

1962—Pub. L. 87-615 substituted "allowance" for "allowances" preceding "forward copies of the application" in first paragraph.

1961—Pub. L. 87-206 clarified the language concerning the Commission's patent rights on inventions made or conceived under contract, subcontract, or arrangement with the Commission, eliminating language extending Commission's patent rights to other relationships and activities in connection with Commission contracts, provided for waiver of patent rights consistent with the policy of this section and for finality of determinations of the Commission, and dispensed with need for statement to Commissioner of Patents under certain circumstances.

§ 2183. Nonmilitary utilization.

(a) Declaration of public interest.

The Commission may, after giving the patent owner an opportunity for a hearing, declare any patent to be affected with the public interest if (1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy; and (2) the licensing of such invention or discovery under this section is of primary importance to effectuate the policies and purposes of this chapter.

(b) Action by Commission.

Whenever any patent has been declared affected with the public interest, pursuant to subsection (a) of this section—

(1) the Commission is licensed to use the invention or discovery covered by such patent in performing any of its powers under this chapter; and

(2) any person may apply to the Commission for a nonexclusive patent license to use the invention or discovery covered by such patent, and the Commission shall grant such patent license to the extent that it finds that the use of the invention or discovery is of primary importance to the conduct of an activity by such person authorized under this chapter.

(c) Application for patent.

Any person—

(1) who has made application to the Commission for a license under sections 2073, 2092, 2093, 2111, 2133 or 2134 of this title, or a permit or lease under section 2097 of this title;

(2) to whom such license, permit, or lease has been issued by the Commission;

(3) who is authorized to conduct such activities as such applicant is conducting or proposes to conduct under a general license issued by the Commission under sections 2092 or 2111 of this title; or

(4) whose activities or proposed activities are authorized under section 2051 of this title,

may at any time make application to the Commission for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent. Each such application shall set forth the nature and purpose of the use which the applicant intends to make of the patent license, the steps taken by the applicant to obtain a patent license from the owner of the patent, and a statement of the effects, as estimated by the applicant, on the authorized activities which will result from failure to obtain such patent license and which will result from the granting of such patent license.

(d) Hearings.

Whenever any person has made an application to the Commission for a patent license pursuant to subsection (c) of this section—

(1) the Commission, within 30 days after the filing of such application, shall make available to the owner of the patent all of the information contained in such application, and shall notify the owner of the patent of the time and place at which a hearing will be held by the Commission;

(2) the Commission shall hold a hearing within 60 days after the filing of such application at a time and place designated by the Commission; and

(3) in the event an applicant applies for two or more patent licenses, the Commission may, in its discretion, order the consolidation of such applications, and if the patents are owned by more than one owner, such owners may be made parties to one hearing.

(e) Commission's findings.

If, after any hearing conducted pursuant to subsection (d) of this section, the Commission finds that—

(1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy;

(2) the licensing of such invention or discovery is of primary importance to the conduct of the activities of the applicant;

(3) the activities to which the patent license are proposed to be applied by such applicant are of primary importance to the furtherance of policies and purposes of this chapter; and

(4) such applicant cannot otherwise obtain a patent license from the owner of the patent on terms which the Commission deems to be reasonable for the intended use of the patent to be made by such applicant,

the Commission shall license the applicant to use the invention or discovery covered by the patent for the purposes stated in such application on terms deemed equitable by the Commission and generally not less fair than those granted by the patentee or by the Commission to similar licensees for comparable use.

(f) Limitations on issuance of patent.

The Commission shall not grant any patent license pursuant to subsection (e) of this section for any other purpose than that stated in the application. Nor shall the Commission grant any patent license to any other applicant for a patent license on the same patent without an application being made by such applicant pursuant to subsection (c) of this section, and without separate notification and hearing as provided in subsection (d) of this section, and without a separate finding as provided in subsection (e) of this section.

(g) Royalty fees.

The owner of the patent affected by a declaration or a finding made by the Commission pursuant to subsection (b) or (e) of this section shall be entitled to a reasonable royalty fee from the licensee for any use of an invention or discovery licensed by this section. Such royalty fee may be agreed upon by such owner and the patent licensee, or in the absence of such agreement shall be determined for each patent license by the Commission pursuant to section 2187 (c) of this title.

(h) Effective period.

The provisions of this section shall apply to any patent the application for which shall have been filed before September 1, 1974. (Aug. 1, 1946, ch. 724, § 153 as added Aug. 20, 1954, ch. 1073, § 1, 68 Stat. 945, and amended June 23, 1959, Pub. L. 86–50, § 114, 73 Stat. 87; Aug. 1, 1964, Pub. L. 88–394, § 1, 78 Stat. 376; Dec. 24, 1969, Pub. L. 91–161, § 1, 83 Stat. 444.)

AMENDMENTS

1969—Subsec. (h). Pub. L. 91–161 substituted "September 1, 1974" for "September 1, 1969."

1964—Subsec. (h). Pub. L. 88–394 substituted "September 1, 1969" for "September 1, 1964."

1959—Subsec. (h). Pub. L. 86–50 substituted "September 1, 1964" for "September 1, 1959."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2184, 2186, 2187, 2239 of this title.

§ 2184. Injunctions; measure of damages.

No court shall have jurisdiction or power to stay, restrain, or otherwise enjoin the use of any invention or discovery by a patent licensee, to the extent that such use is licensed by section 2183 (b) or 2183 (e) of this title. If, in any action against such patent licensee, the court shall determine that the defendant is exercising such license, the measure of damages shall be the royalty fee determined pursuant to section 2187 (c) of this title, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court. If no royalty fee has been determined, the court shall stay the proceeding until the royalty fee is determined pursuant to section 2187 (c) of this title. If any such patent licensee shall fail to pay such royalty fee, the patentee may bring an action in any court of competent jurisdiction for such royalty fee, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court. (Aug. 1, 1946, ch. 724, § 154, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 946.)

§ 2185. Prior art.

In connection with applications for patents covered by this subchapter, the fact that the invention or discovery was known or used before shall be a bar to the patenting of such invention or discovery even though such prior knowledge or use was under secrecy within the atomic energy program of the United States. (Aug. 1, 1946, ch. 724, § 155, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2190 of this title.

§ 2186. Commission patent licenses.

The Commission shall establish standard specifications upon which it may grant a patent license to use any patent held by the Commission or declared to be affected with the public interest pursuant to section 2183 (a) of this title. Such a patent license shall not waive any of the other provisions of this chapter. (Aug. 1, 1946, ch. 724, § 156, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947.)

§ 2187. Compensation, awards, and royalties.

(a) Patent Compensation Board.

The Commission shall designate a Patent Compensation Board to consider applications under this section. The members of the Board shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Board. The members of the Board may serve as such without regard to the provisions of sections 281, 283, or 284 of Title 18, except in so far as such sections may prohibit any such member from receiving compensation in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(b) Eligibility.

(1) Any owner of a patent licensed under section 2188 or 2183 (b) or 2183 (e) of this title, or any patent licensee thereunder may make application to the Commission for the determination of a reasonable royalty fee in accordance with such procedures as the Commission by regulation may establish.

(2) Any person seeking to obtain the just compensation provided in section 2181 of this title shall make application therefor to the Commission in accordance with such procedures as the Commission may by regulation establish.

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this chapter and who has complied with the provisions of section 2181 (c) of this title may make application to the Commission for, and the Commission may grant, an award. The Commission may also, upon the recommendation of the General Advisory Committee, and with the approval of the President, grant an award for any especially meritorious contribution to the development, use, or control of atomic energy.

(c) Standards.

(1) In determining a reasonable royalty fee as provided for in section 2183 (b) or 2183 (e) of this title, the Commission shall take into consideration (A) the advice of the Patent Compensation Board; (B) any defense, general or special, that might be pleaded by a defendant in an action for infringement; (C) the extent to which, if any, such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 2181 of this title, or in determining the amount of any award under subsection (b) (3) of this section, the Commission shall take into account the considerations set forth in paragraph (1) of this subsection and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

(d) Limitations.

Every application under this section shall be barred unless filed within six years after the date on which first accrues the right to such reasonable royalty fee, just compensation, or award for which such application is filed. (Aug. 1, 1946, ch. 724, § 157, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 947, and amended Sept. 6, 1961, Pub. L. 87–206, § 11, 75 Stat. 478.)

REFERENCES IN TEXT

Sections 281, 283, and 284 of Title 18, referred to in subsec. (a), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States. These sections are now covered by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. See notes under former sections 281—284 of Title 18.

AMENDMENTS

1961—Subsec. (d). Pub. L. 87–206 added subsec. (d).

EX. ORD. NO. 11477. AWARDS BY COMMISSION WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 11477, Aug. 7, 1969, 34 F.R. 12937, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Atomic Energy Commission is hereby designated and empowered, without approval, ratification, or other action by the President, to grant by the unanimous affirmative vote of all of its members not more than five awards in any calendar year, not exceeding the sum of $5,000 each, pursuant to the last sentence of section 157b(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)) [subsec. (b)(3) of this section] which authorizes the Commission to grant awards for especially meritorious contributions to the development, use, or control of atomic energy.

RICHARD NIXON

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2183, 2184, 2239 of this title.

§ 2188. Monopolistic use of patents.

Whenever the owner of any patent hereafter granted for any invention or discovery of primary use in the utilization or production of special nuclear material or atomic energy is found by a court of competent jurisdiction to have intentionally used such patent in a manner so as to violate any of the antitrust laws specified in section 2135(a) of this title, there may be included in the judgment of the court, in its discretion and in addition to any other lawful sanctions, a requirement that such owner license such patent to any other licensee of the Commission who demonstrates a need therefor. If the court, at its discretion, deems that such licensee shall pay a reasonable royalty to the owner of the patent, the reasonable royalty shall be determined in accordance with section 2187 of this title. (Aug. 1, 1946, ch. 724, § 158, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended Sept. 6, 1961, Pub. L. 87-206, § 12, 75 Stat. 478.)

AMENDMENTS

1961—Pub. L. 87-206 made it discretionary, rather than mandatory, for the court to require payment of royalties by a licensee to the owner of a patent.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2187 of this title.

§ 2189. Federally financed research.

Nothing in this chapter shall affect the right of the Commission to require that patents granted on inventions, made or conceived during the course of federally financed research or operations, be assigned to the United States. (Aug. 1, 1946, ch. 724, § 159, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 159.)

§ 2190. Saving clause for prior patent applications.

Any patent application on which a patent was denied by the United States Patent Office under sections 11 (a) (1), 11 (a) (2), or 11 (b) of the Atomic Energy Act of 1946, and which is not prohibited by section 2181 or 2185 of this title may be reinstated upon application to the Commissioner of Patents within one year after August 30, 1954 and shall then be deemed to have been continuously pending since its original filing date: *Provided, however,* That no patent issued upon any patent application so reinstated shall in any way furnish a basis of claim against the Government of the United States. (Aug. 1, 1946, ch. 724, § 160, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948.)

REFERENCES IN TEXT

Sections 11 (a) (1), 11 (a) (2), and 11 (b) of the Atomic Energy Act of 1946, referred to in the text, were formerly classified to section 1811 (a) (1), (2), and (b) of this title.

SUBCHAPTER XIII.—GENERAL AUTHORITY OF COMMISSION

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 12 of act Aug. 1, 1946, ch. 724, 60 Stat. 770 (formerly classified to section 1812 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2305 of this title.

§ 2201. General duties of Commission.

In the performance of its functions the Commission is authorized to—

(a) Establishment of advisory boards.
establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

(b) Standards governing use and possession of material.
establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property;

(c) Studies and investigations.
make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(d) Employment of personnel.
appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, except that, to the extent the

Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compenation fixed without regard to such laws: *Provided, however,* That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule whose position would be subject to chapter 51 and subchapter III of chapter 53 of Title 5, if such provisions were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such provisions for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by chapter 51 and subchapter III of chapter 53 of Title 5, as of the same date such rates are authorized for positions subject to such provisions. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;

(e) Acquisition of material, property, etc.; negotiation of commercial leases.
acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilites from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title: *Provided, however,* That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising[1] and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;

(f) Utilization of other Federal agencies.
with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

(g) Acquisition of real and personal property.
acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject to the provisions of section 2224 of this title, and to sell, lease, grant, and dispose of such real and personal property as provided in this chapter;

(h) Consideration of license applications.
consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission;

(i) Regulations governing Restricted Data.
prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, and to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;

(j) Disposition of surplus materials.
without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 488 of Title 40, or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: *Provided, however,* That the property furnished to licensees in accordance with the provisions of subsection (m) of this section shall not be deemed to be property disposed of by the Commission pursuant to this subsection;

(k) Carrying of firearms.
authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties;

(*l*) Repealed. Pub. L. 87–456, title III, § 303(c), May 24, 1962, 76 Stat. 78.

(m) Agreements regarding production.
enter into agreements with persons licensed under section 2133, 2134, 2073(a)(4), or 2093(a)(4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilites owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the

[1] So in original.

licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: *Provided, however,* That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: *And provided further,* That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Government for such material or services and will not discourage the development of sources of supply independent of the Commission;

(n) Delegation of functions.
delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b), 2091, 2138, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(f) of this title and subsection (a) of this section;

(o) Reports.
require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant to sections 2073, 2093, 2111, 2133, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title; and

(p) Rules and regulations.
make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(q) Easements for rights-of-way.
The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon acquired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: *Provided,* That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be incompatible with the public interest: *Provided further,* That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: *And provided further,* That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

(r) Sale of utilities and related services.
Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to sell to purchasers within Commission-owned communities or in the immediate vicinity of the Commission community, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of the national defense or in the public interest:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural, manufactured, or mixed gas.
(7) Ice.
(8) Mechanical refrigeration.
(9) Telephone service.

Proceeds of sales under this subsection shall be credited to the appropriation currently available for the supply of that utility or service. To meet local needs the Commission may make minor expansions and extensions of any distributing system or facility within or in the immediate vicinity of a Commission-owned community through which a utility or service is furnished under this subsection.

(s) Succession of authority.
establish a plan for a succession of authority which will assure the continuity of direction of the Commission's operations in the event of a national disaster due to enemy activity. Notwithstanding any other provision of this chapter, the person or persons succeeding to command in the event of disaster in accordance with the plan established pursuant to this subsection shall be vested with all of the authority of the Commission: *Provided,* That any such succession to authority, and vesting of authority shall be effective only in the event and as long as a quorum of three or more members of the Commission is unable to convene and exercise direction during the disaster period: *Provided further,* That the disaster period includes the period when attack on the United States is imminent and the post-attack period necessary to reestablish normal lines of command;

(t) Contracts.
enter into contracts for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct or other material, or special nuclear material, in accordance with and within the period of an agreement for cooperation

while comparable services are available to persons licensed under section 2133 or 2134 of this title: *Provided,* That the prices for services under such contracts shall be no less than the prices currently charged by the Commission pursuant to subsection (m) of this section;

(u) Additional contracts; guiding principles; appropriations.

(1) enter into contracts for such periods of time as the Commission may deem necessary or desirable, but not to exceed five years from the date of execution of the contract, for the purchase or acquisition of reactor services or services related to or required by the operation of reactors;

(2) (A) enter into contracts for such periods of time as the Commission may deem necessary or desirable for the purchase or acquisition of any supplies, equipment, materials, or services required by the Commission whenever the Commission determines that: (i) it is advantageous to the Government to make such purchase or acquisition from commercial sources; (ii) the furnishing of such supplies, equipment, materials, or services will require the construction or acquisition of special facilities by the vendors or suppliers thereof; (iii) the amortization chargeable to the Commission constitutes an appreciable portion of the cost of contract performance, excluding cost of materials; and (iv) the contract for such period is more advantageous to the Government than a similar contract not executed under the authority of this subsection. Such contracts shall be entered into for periods not to exceed five years each from the date of initial delivery of such supplies, equipment, materials, or services or ten years from the date of execution of the contracts excluding periods of renewal under option.

(B) In entering into such contracts the Commission shall be guided by the following principles: (i) the percentage of the total cost of special facilities devoted to contract performance and chargeable to the Commission should not exceed the ratio between the period of contract deliveries and the anticipated useful life of such special facilities; (ii) the desirability of obtaining options to renew the contract for reasonable periods at prices not to include charges for special facilities already amortized; and (iii) the desirability of reserving in the Commission the right to take title to the special facilities under appropriate circumstances; and

(3) include in contracts made under this subsection provisions which limit the obligation of funds to estimated annual deliveries and services and the unamortized balance of such amounts due for special facilities as the parties shall agree is chargeable to the performance of the contract. Any appropriation available at the time of termination or thereafter made available to the Commission for operating expenses shall be available for payment of such costs which may arise from termination as the contract may provide. The term "special facilities" as used in this subsection means any land and any depreciable buildings, structures, utilities, machinery, equipment, and fixtures necessary for the production or furnishing of such supplies, equipment, materials, or services and not available to the vendors or suppliers for the performance of the contract.

(v) Contracts for production or enrichment of special nuclear material; domestic licensees; other nations; prices; materials of foreign origin; criteria for availability of services under this subsection; Congressional review.

(A) enter into contracts with persons licensed under sections 2073, 2093, 2133 or 2134 of this title for such periods of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission; and

(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and within the period of an agreement for cooperation arranged pursuant to section 2153 of this title while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time: *And provided further,* That the Commission, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided,* That before the Commission establishes such criteria, the proposed criteria shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five-day period. (Aug. 1, 1946, ch. 724, § 161, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 948, and amended July 14, 1956, ch. 608, 70 Stat. 553; Aug. 6, 1956, ch. 1015, § 4, 70 Stat. 1069; Aug. 21, 1957, Pub. L. 85–162, title II, §§ 201, 204, 71 Stat. 410; Sept. 4, 1957, Pub. L. 85–287, § 4, 71 Stat. 613; July 7, 1958, Pub. L. 85–507, § 21 (b)(1), 72 Stat. 337; Aug. 19, 1958, Pub. L. 85–681, §§ 6, 7, 72 Stat. 633; Sept. 21, 1959, Pub. L. 86–300, § 1, 73 Stat. 574; Sept. 6, 1961, Pub. L. 87–206, § 13, 75 Stat. 478; May 24, 1962, Pub. L. 87–456, title III, § 303(c), 77 Stat. 78; Aug. 29, 1962, Pub. L. 87–615, § 12, 76 Stat. 411; Oct. 11, 1962, Pub. L. 87–793,

§ 1001(g), 76 Stat. 864; Aug. 26, 1964, Pub. L. 88–489, § 16, 78 Stat. 606; Dec. 14, 1967, Pub. L. 90–190, § 11, 81 Stat. 578; Oct. 15, 1970, Pub. L. 91–452, title II, § 237, 84 Stat. 930; Dec. 19, 1970, Pub. L. 91–560, §§ 7, 8, 84 Stat. 1474.)

REFERENCES IN TEXT

For grade 18 of the General Schedule, referred to in subsec. (d), see section 5332 of Title 5, Government Organization and Employees.

The civil-service laws, referred to in subsec. (d), are classified generally to chapter 31 of Title 5.

The Federal Property and Administrative Services Act, referred to in subsec. (j), is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–452 struck out the provisions that no person be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but that the immunity provisions of the Compulsory Testimony Act of Feb. 11, 1893, apply with respect to any individual who specifically claims such privilege.

Subsec. (n). Pub. L. 91–560, § 7, struck out references to section 2132 of this title and the finding of practical value.

Subsec. (v). Pub. L. 91–560, § 8, substituted provisions for the establishment of prices on a basis of recovery of the Government's costs over a reasonable period of time for provisions for the establishment of prices on a basis which will provide reasonable compensation to the Government.

1967—Subsec. (n). Pub. L. 90–190 substituted "2077(b)" for "2077(a)(3)".

1964—Subsec. (v). Pub. L. 88–489 added subsec. (v).

1962—Subsec. (d). Pub. L. 87–793 substituted "up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "up to a limit of $19,000." For the purposes of codification the Classification Act of 1949 has been translated as chapter 51 and subchapter III of chapter 53 of Title 5.

Subsec. (*l*). Pub. L. 87–456 repealed former subsec. (*l*) which authorized the admittance free of duty into the United States of purchases made abroad of source materials. See Revised Tariff Schedules set out in section 1202 of Title 19, Customs Duties.

Subsec. (n). Pub. L. 87–615 substituted "2165(f) of this title" for "2165(e) of this title."

1961—Subsec. (s)—(u). Pub. L. 87–206 redesignated former subsecs. (t)—(v) as (s)—(u), respectively.

Subsec. (v). Pub. L. 87–206 redesignated former subsec. (v) as (u).

1959—Subsec. (m). Pub. L. 86–300 inserted references to sections 2073(a)(4) and 2093(a)(4) of this title.

1958—Subsec. (d). Pub. L. 85–681, § 6, authorized the Commission to adopt compensation rates on a retroactive basis as may be authorized by the Classification Act for other Government employees. For the purposes of codification the Classification Act of 1949 has been translated as chapter 51 and subchapter III of chapter 53 of Title 5.

Subsec. (n). Pub. L. 85–507 redesignated former subsec. (*o*) as (n). Former subsec. (n), which authorized the Commission to assign employees for instruction, education, or training by public or private agencies, institutions of learning, laboratories, or industrial or commercial organizations, was repealed by Pub. L. 85–507, and is now covered by section 4101 et seq. of Title 5, Government Organizations and Employees.

Subsecs. (*o*)—(r). Pub. L. 85–507 redesignated former subsecs. (p)—(s) as (*o*)—(r) respectively.

Subsecs. (t)—(v). Pub. L. 85–681, § 7 added subsecs. (t)—(v).

1957—Subsec. (d). Pub. L. 85–287 inserted "up to a limit of $19,000" following "scientific and technical personnel".

Subsec. (e). Pub. L. 85–162, § 201 inserted "(at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant)" following "adjusted terms which".

Subsec. (s). Pub. L. 85–162, § 204 added subsec. (5).

1956—Subsec. (e). Act July 14, 1956 added proviso relating to negotiation of commercial leases without advertising by the Commission.

Subsec. (r). Act Aug. 6, 1956 added subsec. (r).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87–793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87–793.

Repeal of subsec. (*l*) effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456, set out as a note preceding section 1202 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–507, see section 21(a) of Pub. L. 85–507.

TRANSFER OF FUNCTIONS

The functions of the Atomic Energy Commission administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consisted of establishing generally applicable environmental standards for the protection of the general environment from radioactive material, were transferred to the Administrator of the Environmental Protection Agency by 1970 Reorg. Plan No. 3, § 2(a)(6), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Atomic Energy Commission, see Parts 1, 14, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

SAVINGS PROVISION

Amendment by Pub. L. 91–452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

PRINCIPAL OFFICE BUILDING FOR ATOMIC ENERGY COMMISSION

Act May 6, 1955, ch. 34, 69 Stat. 47, as amended by Pub. L. 85–107, July 17, 1957, 71 Stat. 307, provided: "That the Atomic Energy Commission is authorized, with funds presently available or otherwise made available to it, to acquire (by purchase, condemnation, or otherwise, under the applicable provisions of chapters 14 and 15 of the Atomic Energy Act of 1954 [sections 2201—2209, 2221—2224 of this title]) a suitable site in or near the District of Columbia and, notwithstanding any other provision of law, to provide for the construction on such site, in accordance with plans and specifications prepared by or under the direction of the Commission, of a modern office building (including necessary related equipment, and auxiliary structures, as well as vaults for the protection of Restricted Data) to serve as the principal office of the Commission at a total cost of not to exceed $13,300,000 and for that purpose there is authorized to be appropriated such sums as may be necessary."

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

Section 203 of Pub. L. 85-162 directed the Atomic Energy Commission, the Federal Housing Administration, and the Housing and Home Finance Agency to report to the Joint Committee by January 31, 1958, with respect to the renegotiations, reappraisals, and sales proceedings authorized under sections 201 and 202 of Pub. L. 85-162 [amending subsec. (e) of this section and adding section 2325 (c) of this title].

CROSS REFERENCES

Agreements with States for discontinuance of Commission regulation of certain materials under this section, see section 2021(b) of this title.

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Per diem and mileage of witnesses generally, see section 1821 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021, 2093, 2203, 2273, 2281, 2294, 2325 of this title and in title 5 section 7533.

§ 2202. Contracts.

The President may, in advance, exempt any specific action of the Commission in a particular matter from the provisions of law relating to contracts whenever he determines that such action is essential in the interest of the common defense and security. (Aug. 1, 1946, ch. 724, § 162, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951.)

§ 2203. Advisory committees.

The members of the General Advisory Committee established pursuant to section 2036 of this title and the members of advisory boards established pursuant to section 2201 (a) of this title may serve as such without regard to the provisions of sections 281, 283, or 284 of Title 18, except insofar as such sections may prohibit any such member from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested. (Aug. 1, 1946, ch. 724, § 163, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951, and amended Sept. 21, 1959, Pub. L. 86-300, § 2, 73 Stat. 574.)

REFERENCES IN TEXT

Sections 281, 283 and 284 of title 18, referred to in text were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States. These sections are now covered by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. See notes under former sections 281-284 of Title 18.

AMENDMENT

1959—Pub. L. 86-300 amended section to insert "from a source other than a nonprofit educational institution."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2051, 2241 of this title.

§ 2204. Electric utility contracts; authority to enter into; cancellation; submission to Joint Committee.

The Commission is authorized in connection with the construction or operation of the Oak Ridge, Paducah, and Portsmouth installations of the Commission, without regard to section 665 of Title 31, to enter into new contracts or modify or confirm existing contracts to provide for electric utility services for periods not exceeding twenty-five years, and such contracts shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contracts, and any appropriation presently or hereafter made available to the Commission shall be available for the payment of such cancellation costs. Any such cancellation payments shall be taken into consideration in determination of the rate to be charged in the event the Commission or any other agency of the Federal Government shall purchase electric utility services from the contractor subsequent to the cancellation and during the life of the original contract. The authority of the Commission under this section to enter into new contracts or modify or confirm existing contracts to provide for electric utility services includes, in case such electric utility services are to be furnished to the Commission by the Tennessee Valley Authority, authority to contract with any person to furnish electric utility services to the Tennessee Valley Authority in replacement thereof. Any contract hereafter entered into by the Commission pursuant to this section shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) before the contract of the Commission shall become effective: *Provided, however,* That the Joint Committee, after having received the proposed contract, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period. (Aug. 1, 1946, ch. 724, § 164, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951.)

§ 2204a. Fission product contracts; authority to enter into; cancellation; submission to Joint Committee.

(a) Without regard to section 665 of Title 31, the Commission is authorized to enter into contracts for such periods of time as the Commission may deem necessary or desirable, for the purpose of making available fission products from Commission reactors, with or without charge for commercial application.

(b) Any contract entered into by the Commission pursuant to this section shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contract, and any appropriation presently or hereafter made available to the Commission shall be available for payment of such costs which may arise from termination as the contract may provide.

(c) Before the Commission enters into any arrangement or amendment thereto under the authority of this section, the basis for the proposed arrangement or amendment thereto which the Commission proposes to execute (with necessary background and explanatory data) shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days: *Provided, however,* That the Joint Committee, after having received the basis for the proposed arrangement or

amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period. (Pub. L. 88–332, § 107, June 30, 1964, 78 Stat. 230.)

CODIFICATION

Section was not enacted as a part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2205. Contract practices.

(a) In carrying out the purposes of this chapter the Commission shall not use the cost-plus-percentage-of-cost system of contracting.

(b) No contract entered into under the authority of this chapter shall provide, and no contract entered into under the authority of the Atomic Energy Act of 1946, as amended, shall be modified or amended after August 30, 1954, to provide, for direct payment or direct reimbursement by the Commission of any Federal income taxes on behalf of any contractor performing such contract for profit. (Aug. 1, 1946, ch. 724, § 165, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951.)

REFERENCES IN TEXT

The Atomic Energy Act of 1946, referred to in subsec. (b), was formerly classified to section 1801 et seq. of this title.

§ 2206. Comptroller General audit.

No moneys appropriated for the purposes of this chapter shall be available for payments under any contract with the Commission, negotiated without advertising, except contracts with any foreign government or any agency thereof and contracts with foreign producers, unless such contract includes a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to such contracts or subcontracts: *Provided, however,* That no moneys so appropriated shall be available for payment under such contract which includes any provision precluding an audit by the General Accounting Office of any transaction under such contract: *And provided further,* That nothing in this section shall preclude the earlier disposal of contractor and subcontractor records in accordance with records disposal schedules agreed upon between the Commission and the General Accounting Office. (Aug. 1, 1946, ch. 724, § 166, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 951, and amended Aug. 19, 1958, Pub. L. 85–681, § 8, 72 Stat. 634.)

AMENDMENTS

1958—Pub. L. 85–681 added proviso clause relating to records disposal.

§ 2207. Claim settlements; reports to Congress.

The Commission, acting on behalf of the United States, is authorized to consider, ascertain, adjust, determine, settle, and pay, any claim for money damage of $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from any detonation, explosion, or radiation produced in the conduct of any program undertaken by the Commission involving the detonation of an explosive device, where such claim is presented to the Commission in writing within one year after the accident or incident out of which the claim arises: *Provided, however,* That the damage to or loss of property, or bodily injury or death, shall not have been caused in whole or in part by any negligence or wrongful act on the part of the claimant, his agents, or employees. Any such settlement under the authority of this section shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary. If the Commission considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this section, the Commission may report the facts and circumstances thereof to the Congress for its consideration. (Aug. 1, 1946, ch. 724, § 167, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952, and amended Sept. 6, 1961, Pub. L. 87–206, § 14, 75 Stat. 478.)

AMENDMENTS

1961—Pub. L. 87–206 substituted "any program undertaken by the Commission involving the detonation of an explosive device" for the Commission's program for testing atomic weapons" and authorized the Commission to report meritorious claims in excess of $5,000 to the Congress.

§ 2208. Payments in lieu of taxes.

In order to render financial assistance to those States and localities in which the activities of the Commission are carried on, and in which the Commission has acquired property previously subject to State and local taxation, the Commission is authorized to make payments to State and local governments in lieu of property taxes. Such payments may be in the amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the Commission, the Manhattan Engineer District or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment. (Aug. 1, 1946, ch. 724, § 168, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 9 of act Aug. 1, 1946, ch. 724, 60 Stat. 765 (formerly classified to section 1809 of this title), prior to the complete amendment and renumbering of said act Aug. 1, 1946, by act Aug. 30, 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2391 of this title.

§ 2209. Subsidies.

No funds of the Commission shall be employed in the construction or operation of facilities licensed under section 2133 or 2134 of this title except under contract or other arrangement entered into pursuant to section 2051 of this title. (Aug. 1, 1946, ch. 724, § 169, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952.)

§ 2210. Indemnification and limitation of liability.

(a) Financial protection for public liability claims; indemnification agreement; waiver of immunity.

Each license issued under section 2133 or 2134 of this title and each construction permit issued under section 2235 of this title shall, and each license issued under section 2073, 2093, or 2111 of this title may, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with subsection (b) of this section to cover public liability claims. Whenever such financial protection is required, it shall be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection (c) of this section. The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

(b) Amount and types of financial protection.

The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided,* That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available from private sources. Such financial protection may include private insurance, private contractual indemnities, self insurance, other proof of financial responsibility, or a combination of such measures.

(c) Indemnification from public liability in excess of level of financial protection; aggregate indemnity.

The Commission shall, with respect to licenses issued between August 30, 1954, and August 1, 1977, for which it requires financial protection, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 including the reasonable costs of investigating and settling claims and defending suits for damage: *Provided, however,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1977, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1977.

(d) Indemnification agreements for construction or operation of production or utilization facilities, or other activities; applicability to contracts; sovereign immunity.

In addition to any other authority the Commission may have, the Commission is authorized until August 1, 1977, to enter into agreements of indemnification with its contractors for the construction or operation of production or utilization facilities or other activities under contracts for the benefit of the United States involving activities under the risk of public liability for a substantial nuclear incident. In such agreements of indemnification the Commission may require its contractor to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000, including the reasonable costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with such contract and for each nuclear incident: *Provided,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000: *Provided further,* That in the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Commission shall not exceed $100,000,000. The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Commission. A contractor with whom an agreement of indemnification has been executed and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this section, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.

(e) Aggregate liability for a single nuclear incident.

The aggregate liability for a single nuclear incident of persons indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor: *Provided, however,* That such aggregate liability shall in no event exceed the sum of $560,000,000: *Provided further,* That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection (d) of this section is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.

(f) Collection and amount of fee.

The Commission is authorized to collect a fee from all persons with whom an indemnification agreement

is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 2133 of this title. For facilities licensed under section 2134 of this title, and for construction permits under section 2235 of this title, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 2134 of this title, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.

(g) Use of facilities and services of private insurance organizations.

In administering the provisions of this section, the Commission shall use, to the maximum extent practicable, the facilities and services of private insurance organizations, and the Commission may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of Title 41 upon a showing by the Commission that advertising is not reasonably practicable and advance payments may be made.

(h) Conditions of agreement of indemnification; settlement of claims.

The agreement of indemnification may contain such terms as the Commission deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission shall collaborate with any person indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this chapter. Such settlement may include reasonable expenses in connection with the claim incurred by the person indemnified.

(i) Survey of causes and extent of damage; report to Joint Committee.

After any nuclear incident which will probably require payments by the United States under this section, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, and, except as forbidden by the provisions of sections 2161 to 2166 of this title or any other law or Executive order, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.

(j) Contracts in advance of appropriations.

In administering the provisions of this section, the Commission may make contracts in advance of appropriations and incur obligations without regard to section 665 of Title 31.

(k) Exemption from financial protection requirement; indemnification from public liability in excess of $250,000; aggregate indemnity; waiver.

With respect to any license issued pursuant to section 2073, 2093, 2111, 2134(a), or 2134(c) of this title, for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection requirement of subsection (a) of this section. With respect to licenses issued between August 30, 1954, and August 1, 1977, for which the Commission grants such exemption:

(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, including the reasonable cost of investigating and settling claims and defending suits for damage;

(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

Any licensee may waive an exemption to which it is entitled under this subsection. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and August 1, 1977, the requirements of this subsection shall apply to any license issued for such facility subsequent to August 1, 1977.

(*l*) Indemnification agreements in connection with nuclear ship *Savannah*.

The Commission is authorized until August 1, 1977, to enter into an agreement of indemnification with any person engaged in the design, development, construction, operation, repair, and maintenance or use of the nuclear-powered ship authorized by section 1206 of Title 46, and designated the "nuclear ship *Savannah*." In any such agreement of indemnification the Commission may require such person to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising from a nuclear incident in connection with such design, development, construction, operation, repair, maintenance or use and shall indemnify the person indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000 including the reasonable costs of investigating and settling

claims and defending suits for damage in the aggregate for all persons indemnified in connection with each nuclear incident: *Provided,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000.

(m) Agreements for establishment of procedures for handling, investigation, and settlement of public liability claims; emergency assistance payments.

The Commission is authorized to enter into agreements with other indemnitors to establish coordinated procedures for the prompt handling, investigation, and settlement of claims for public liability. The Commission and other indemnitors may make payments to, or for the aid of, claimants for the purpose of providing immediate assistance following a nuclear incident. Any funds appropriated to the Commission shall be available for such payments. Such payments may be made without securing releases, shall not constitute an admission of the liability of any person indemnified or of any indemnitor, and shall operate as a satisfaction to the extent thereof of any final settlement or judgment.

(n) Waiver of defenses; jurisdiction and venue of public liability actions; removal or transfer of actions; process.

(1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

(a) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility, or

(b) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility, or

(c) during the course of the contract activity arises out of or results from the possession, operation, or use by a Commission contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

the Commission may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons indemnified, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than ten years after the date of the nuclear incident. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection (e) of this section.

(2) With respect to any public liability action arising out of or resulting from an extraordinary nuclear occurrence, the United States district court in the district where the extraordinary nuclear occurrence takes place, or in the case of an extraordinary nuclear occurrence taking place outside the United States, the United States District Court for the District of Columbia, shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. Upon motion of the defendant or of the Commission, any such action pending in any State court or United States district court shall be removed or transferred to the United States district court having venue under this subsection. Process of such district court shall be effective throughout the United States.

(*o*) Percentage limitation; distribution plans; claim disposition and fund distribution plans; allocation for personal injury, property damage, and possible latent injury claims; approval, disapproval, or modification; adoption of other plan; orders for implementation and enforcement of provisions; area orders effective.

Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed the limit of liability under subsection (e) of this section:

(1) Total payments made by or for all indemnitors as a result of such nuclear incident shall not exceed 15 per centum of such limit of liability without the prior approval of such court;

(2) The court shall not authorize payments in excess of 15 per centum of such limit of liability unless the court determines that such payments are or will be in accordance with a plan of distribution which has been approved by the court or such payments are not likely to prejudice the subsequent adoption and implementation by the court of a plan of distribution pursuant to subparagraph (3) of this subsection (*o*); and

(3) The Commission shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal in-

jury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another plan; and to determine the proportionate share of funds available for each claimant. The Commission, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States.

(Aug. 1, 1946, ch. 724, § 170, as added Sept. 2, 1957, Pub. L. 85–256, § 4, 71 Stat. 576, and amended Aug. 8, 1958, Pub. L. 85–602, §§ 2, [3], 72 Stat. 525; Aug. 23, 1958, Pub. L. 85–744, 72 Stat. 837; Sept. 6, 1961, Pub. L. 87–206, § 15, 75 Stat. 479; Aug. 29, 1962, Pub. L. 87–615, §§ 6, 7, 76 Stat. 410; Aug. 1, 1964, Pub. L. 88–394, §§ 2, 3, 78 Stat. 376; Sept. 29, 1956, Pub. L. 89–210, §§ 1—5, 79 Stat. 855—857; Oct. 13, 1966, Pub. L. 89–645, §§ 2, 3, 80 Stat. 891.)

AMENDMENTS

1966—Subsec. (e). Pub. L. 89–645, § 2, deleted last sentence which authorized application by the Commission or any indemnified person to district court of the United States having venue in bankruptcy over location of nuclear incident and to United States District Court for the District of Columbia in cases of nuclear incidents occurring outside the United States, and upon a showing that public liability from a single nuclear incident will probably exceed the limit of imposable liability, entitled the applicant to orders for enforcement of this section, including limitation of liablity of indemnified persons, staying payment of claims and execution of court judgments, apportioning payments to claimants, permitting partial payments before final determination of total claims, and setting aside part of funds for possible injuries not discovered until later time, now incorporated in subsec. (o) of this section.

Subsecs. (m)—(o). Pub. L. 89–645, § 3, added subsecs. (m)—(o).

1965—Subsec. (c). Pub. L. 89–210, § 1, substituted "August 1, 1977" for "August 1, 1967" wherever appearing, and added the proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (d). Pub. L. 89–210, § 2, substituted "August 1, 1977" for "August 1, 1967," and added the proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (e). Pub. L. 89–210, § 3, added the proviso prohibiting the aggregate liability to exceed the sum of $560,000,000.

Subsec. (k). Pub. L. 89–210, § 4, substituted "August 1, 1977" for "August 1, 1967" wherever appearing.

Subsec. (l). Pub. L. 89–210, § 5, substituted "August 1, 1977" for "August 1, 1967" and "in the amount of $500,000,000" for "in the maximum amount provided by subsection (e) of this section", inserted "in the aggregate for all persons indemnified in connection with each nuclear incident", and added the proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

1964—Subsec. (c). Pub. L. 88–394, § 2, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

Subsec. (k). Pub. L. 88–394, § 3, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

1962—Subsec. (d). Pub. L. 87–615, § 6, limited the amount of indemnity provided by the Commission for nuclear incidents occurring outside the United States to $100,000,000.

Subsec. (e). Pub. L. 87–615, § 7, added the proviso limiting the aggregate liability in cases of nuclear incidents occurring outside the United States to which an indemnification agreement entered into under subsec. (d) of this section is applicable, to $100,000,000, and substituted "occurring outside the United States, the Commission or any person indemnified may apply to the United States District Court for the District of Columbia" for "caused by ships of the United States outside of the United States, the Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship."

1961—Subsec. (d). Pub. L. 87–206 added provision for liability of contractor to extent of indemnification under this section free of defense of soverign immunity.

1958—Subsec. (e). Pub. L. 85–602, § 2 [3], gave the district court that has venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship, jurisdiction in cases of nuclear incidents caused by ships of the United States outside of the United States.

Subsec. (k). Pub. L. 85–744 added subsec. (k).

Subsec. (l). Pub. L. 85–602, § 2 added subsec. (l).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2073, 2296 of this title.

SUBCHAPTER XIV.—COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 13 of act Aug. 1, 1946, ch. 724, 60 Stat. 772 (formerly classified to section 1813 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, 9:44 a. m., E. D. T., ch. 1073, 68 Stat. 921.

§ 2221. Just compensation for requisitioned property.

The United States shall make just compensation for any property or interests therein taken or requisitioned pursuant to sections 2063, 2075, 2096, and 2138 of this title. Except in case of real property or any interest therein, the Commission shall determine and pay such just compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States for the district in which such claimant is a resident in the manner provided by section 1346 of Title 28 to recover such further sum as added to said 75 per centum will constitute just compensation. (Aug. 1, 1946, ch. 724, § 171, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 952, and amended Aug. 26, 1964, Pub. L. 88–489, § 17, 78 Stat. 606.)

AMENDMENTS

1964—Pub. L. 88–489 substituted "2075" for "2072 (with respect to the material for which the United States is required to pay just compensation),".

RETROCESSION OF LAND TO NEW MEXICO

Section 3 of act Aug. 30, 1954, provided that:

"There is hereby retroceded to the State of New Mexico the exclusive jurisdiction heretofore acquired from the State of New Mexico by the United States of America over the following land of the United States Atomic Energy Commission in Bernalillo County and within the boundaries of the Sandia base, Albuquerque, New Mexico.

"Beginning at the center quarter corner of section 30, township 10 north, range 4 east, New Mexico principal meridian, Bernalillo County, New Mexico, thence south no degrees twenty-three minutes thirty seconds west one thousand nine hundred forty-seven and twenty one-hundredths feet, thence north eighty-nine degrees thirty-six minutes forty-five seconds east two thousand sixty-eight and forty one-hundredths feet, thence north eighty-nine degrees three minutes fifteen seconds east five hundred forty-six feet, thence north no degrees thirty-nine minutes no seconds east two hundred thirty-two and seventy one-hundredths feet, thence north eighty-nine degrees twenty-one minutes no seconds west eight hundred fifty-two and twenty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east five hundred and sixty one-hundredths feet, thence along the back of the south curb of West Sandia Drive, Sandia Base, Bernalillo County, New Mexico, eight hundred sixty-five and sixty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east one thousand three hundred thirty-five and three-tenths feet to a point south eighty-nine degrees twenty-seven minutes forty-five seconds west a distance of thirty feet from the quarter corner common to sections 30 and 29, township 10 north, range 4 east, thence south eighty-nine degrees, twenty-seven minutes forty-five seconds west two thousand six hundred twenty-three and forty one-hundredths feet to the point of beginning.

"This retrocession of jurisdiction shall take effect upon acceptance by the State of New Mexico."

FEDERAL RULES OF CIVIL PROCEDURE

Complaint for condemnation, see form 29, Title 28, Appendix, Judiciary and Judicial Procedure.

Notice of condemnation, see form 28, Title 28, Appendix.

Procedure in condemnation proceedings, see rule 71A, Title 28, Appendix. Effect of such rule upon this section, see Advisory Committee note under such rule.

§ 2222. Condemnation of real property.

Proceedings for condemnation shall be instituted pursuant to the provisions of sections 257 and 258 of Title 40, and section 1403 of Title 28. Sections 258a to 258e of Title 40 shall be applicable to any such proceedings. (Aug. 1, 1946, ch. 724, § 172, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

REFERENCES IN TEXT

Section 258 of Title 40, referred to in the text, has been omitted as superseded by Rule 71A of the Federal Rules of Civil Procedure, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2223. Patent application disclosures.

In the event that the Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid by the United States to the owner of the patent application. The Commission shall determine such compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States for the district in which such claimant is a resident in a manner provided by section 1346 of Title 28 to recover such further sum as added to such 75 per centum will constitute just compensation. (Aug. 1, 1946, ch. 724, § 173, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

§ 2224. Attorney General approval of title.

All real property acquired under this chapter shall be subject to the provisions of section 255 of Title 40: *Provided, however,* That real property acquired by purchase or donation, or other means of transfer may also be occupied, used, and improved for the purposes of this chapter prior to approval of title by the Attorney General in those cases where the President determines that such action is required in the interest of the common defense and security. (Aug. 1, 1946, ch. 724, § 174, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2201 of this title.

SUBCHAPTER XV.—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 14 of act Aug. 1, 1946, ch. 724, 60 Stat. 772 (formerly classified to section 1814 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, 9:44 a. m., E. D. T., ch. 1073, 68 Stat. 921.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2133 of this title.

§ 2231. Applicability of Administrative Procedure Act; definitions.

The provisions of the Administrative Procedure Act shall apply to all agency action taken under this chapter, and the terms "agency" and "agency action" shall have the meaning specified in the Administrative Procedure Act: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted Data or defense information, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data or defense information to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data or defense information were not involved. (Aug. 1, 1946, ch. 724, § 181, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953.)

REFERENCES IN TEXT

The Administrative Procedure Act, referred to in text, is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

§ 2232. License applications.

(a) Contents and form.

Each application for a license hereunder shall be in writing and shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant, the character of the applicant, the citizenship of the applicant, or any other qualifications of the applicant as the Commission may deem appropriate for the license. In connection with applications for licenses to operate production or utilization facilities, the applicant shall state such technical specifications, including information of the amount, kind,

and source of special nuclear material required, the place of the use, the specific characteristics of the facility, and such other information as the Commission may, by rule or regulation, deem necessary in order to enable it to find that the utilization or production of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. Such technical specifications shall be a part of any license issued. The Commission may at any time after the filing of the original application, and before the expiration of the license, require further written statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee. Applications for, and statements made in connection with, licenses under sections 2133 and 2134 of this title shall be made under oath or affirmation. The Commission may require any other applications or statements to be made under oath or affirmation.

(b) Review of applications by Advisory Committee on Reactor Safeguards; report.

The Advisory Committee on Reactor Safeguards shall review each application under section 2133 or section 2134(b) of this title for a construction permit or an operating license for a facility, any application under section 2134(c) of this title for a construction permit or an operating license for a testing facility, any application under subsection (a) or (c) of section 2134 of this title specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission, and shall submit a report thereon which shall be made part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

(c) Commercial power; publication.

The Commission shall not issue any license under section 2133 of this title for a utilization or production facility for the generation of commercial power until it has given notice in writing to such regulatory agency as may have jurisdiction over the rates and services incident to the proposed activity; until it has published notice of the application in such trade or news publications as the Commission deems appropriate to give reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility; and until it has published notice of such application once each week for four consecutive weeks in the Federal Register, and until four weeks after the last notice.

(d) Preferred consideration.

The Commission, in issuing any license for a utilization or production facility for the generation of commercial power under section 2133 of this title, shall give preferred consideration to applications for such facilities which will be located in high cost power areas in the United States if there are conflicting applications for a limited opportunity for such license. Where such conflicting applications resulting from limited opportunity for such license include those submitted by public or cooperative bodies such applications shall be given preferred consideration. (Aug. 1, 1946, ch. 724, § 182, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 953, and amended Aug. 6, 1956, ch. 1015, § 5, 70 Stat. 1070; Sept. 2, 1957, Pub. L. 85-256, § 6, 71 Stat. 579; Aug. 29, 1962, Pub. L. 87-615, § 3, 76 Stat. 409; Dec. 19, 1970, Pub. L. 91-560, § 9, 84 Stat. 1474.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-560 substituted provisions requiring notification by publication giving reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility, for provisions requiring notice in writing to municipalities, private utlities, public bodies and cooperatives within transmission distance authorized to engage in the distribution of electric energy.

1962—Subsec. (b). Pub. L. 87-615 substituted provisions requiring review of applications under sections 2133 or 2134(b) of this title for a construction permit or an operating license for a facility, or under section 2134(c) of this title for a testing facility, for provisions which required review of license applications for such facilities, and inserted provisions requiring review of any application for an amendment to a construction permit or operating license under sections 2133 or 2134 (a), (b), or (c) of this title specifically referred to it by the Commission.

1957—Subsec. (b). Pub. L. 85-256 added subsec. (b) and also redesignated former subsec. (b) as (c).

Subsecs. (c) and (d). Pub. L. 85-256 redesignated former subsecs. (b) and (c) as (c) and (d).

1956—Subsec. (a). Act Aug. 6, 1956 eliminated words "under oath or affirmation" from the last sentence, and added two sentences at the end requiring applications and statements in connection with sections 2133 and 2134 to be made under oath or affirmation and authorizing Commission to require any other applications or statements to be made under oath or affirmation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2236 of this title.

§ 2233. Terms of licenses.

Each license shall be in such form and contain such terms and conditions as the Commission may, by rule or regulation, prescribe to effectuate the provisions of this chapter, including the following provisions:

(a) Repealed. Pub. L. 88-489, § 18, Aug. 26, 1964, 78 Stat. 607.

(b) No right to the special nuclear material shall be conferred by the license except as defined by the license.

(c) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter.

(d) Every license issued under this chapter shall be subject to the right of recapture or control reserved by section 2138 of this title, and to all of the other provisions of this chapter, now or hereafter in effect and to all valid rules and regulations of the Commission. (Aug. 1, 1946, ch. 724, § 183, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 954, and amended Aug. 26, 1964, Pub. L. 88-489, § 18, 78 Stat. 607.)

AMENDMENTS

1964—Par. (a). Pub. L. 88-489 deleted par. (a) which placed title to all special nuclear material utilized or produced by facilities pursuant to license in the United States at all times.

§ 2234. Inalienability of licenses.

No license granted hereunder and no right to utilize or produce special nuclear material granted hereby shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of this chapter, and shall give its consent in writing. The Commission may give such consent to the creation of a mortgage, pledge, or other lien upon any facility or special nuclear material, owned or thereafter acquired by a licensee, or upon any leasehold or other interest to such facility, and the rights of the creditors so secured may thereafter be enforced by any court subject to rules and regulations established by the Commission to protect public health and safety and promote the common defense and security. (Aug. 1, 1946, ch. 724, § 184, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 954, and amended Aug. 26, 1964, Pub. L. 88–489, § 19, 78 Stat. 607.)

AMENDMENTS

1964—Pub. L. 88–489 inserted "or special nuclear material," following "lien upon any facility" and substituted "interest in such facility" for "interest in such property."

§ 2235. Construction permits.

All applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. The construction permit shall state the earliest and latest dates for the completion of the construction or modification. Unless the construction or modification of the facility is completed by the completion date, the construction permit shall expire, and all rights thereunder be forfeited, unless upon good cause shown, the Commission extends the completion date. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this chapter and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this chapter, the Commission shall thereupon issue a license to the applicant. For all other purposes of this chapter, a construction permit is deemed to be a "license". (Aug. 1, 1946, ch. 724, § 185, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2210 of this title.

§ 2236. Revocation of licenses.

(a) False applications; failure of performance.

Any license may be revoked for any material false statement in the application or any statement of fact required under section 2232 of this title, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate a facility in accordance with the terms of the construction permit or license or the technical specifications in the application, or for violation of, or failure to observe any of the terms and provisions of this chapter or of any regulation of the Commission.

(b) Procedure.

The Commission shall follow the provisions of section 9(b) of the Administrative Procedure Act in revoking any license.

(c) Repossession of material.

Upon revocation of the license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee or may enter upon and operate the facility prior to any of the procedures provided under the Administrative Procedure Act. Just compensation shall be paid for the use of the facility. (Aug. 1, 1946, ch. 724, § 186, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

REFERENCES IN TEXT

Section 9(b) of the Administrative Procedure Act, referred to in subsec. (b), was repealed in the general revision of Title 5, and is now covered by section 558(c) of Title 5, Government Organization and Employees.

The Administrative Procedure Act, referred to in subsec. (c), was repealed in the general revision of Title 5, and the provisions are now covered by sections 551 et seq. and 701 et seq. of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2238, 2239, 2282 of this title.

§ 2237. Modification of license.

The terms and conditions of all licenses shall be subject to amendment, revision, or modification, by reason of amendments of this chapter or by reason of rules and regulations issued in accordance with the terms of this chapter. (Aug. 1, 1946, ch. 724, § 187, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

§ 2238. Continued operation of facilities.

Whenever the Commission finds that the public convenience and necessity or the production program of the Commission requires continued operation of a production facility or utilization facility the license for which has been revoked pursuant to section 2236 of this title, the Commission may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility be operated for such period of time as the public convenience and necessity or the production program of the Commission may, in the judgment of the Commission, require, or until a license for the operation of the facility shall become effective. Just compensation shall be paid for the use of the facility. (Aug. 1, 1946, ch. 724, § 188, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2239 of this title.

§ 2239. Hearings and judicial review.

(a) In any proceeding under this chapter, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award or royalties under sections 2183, 2187, 2236 (c) or 2238 of this title, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission shall hold a hearing after thirty days' notice and publication once in the Federal Register, on each application under section 2133 or 2134(b) of this title for a construction permit for a facility, and on any application under section 2134 (c) of this title for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration.

(b) Any final order entered in any proceeding of the kind specified in subsection (a) of this section shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended, and to the provisions of section 10 of the Administrative Procedure Act, as amended. (Aug. 1, 1946, ch. 724, § 189, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 955, and amended Sept. 2, 1957, Pub. L. 85–256, § 7, 71 Stat. 579; Aug. 29, 1962, Pub. L. 87–615, § 2, 76 Stat. 409.)

REFERENCES IN TEXT

The Act of December 29, 1950, as amended, referred to in subsec. (b), was repealed in the general revision of Title 5, and the provisions are now covered by section 2341 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 10 of the Administrative Procedure Act, as amended, referred to in subsec. (b), was repealed in the general revision of Title 5, and is now covered by section 701 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–615 substituted "construction permit for a facility" and "construction permit for a testing facility" for "license for a facility" and "license for a testing facility" respectively, and authorized the commission in cases where a permit has been issued following a hearing, and in the absence of a request therefor by anyone whose interest may be affected, to issue an operating license or an amendment to a construction permit or an operating license without a hearing upon thirty days' notice and publication once in the Federal Register of its intent to do so, and to dispense with such notice and publication with respect to any application for an amendment to a construction permit or to an operating license upon its determination that the amendment involves no significant hazards consideration.

1957—Subsec. (a). Pub. L. 85–256 required the Commission to hold a hearing after 30 days notice and publication once in the Federal Register on an application for a license for a facility or a testing facility.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2342.

§ 2240. Licensee incident reports as evidence.

No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report. (Aug. 1, 1946, ch. 724, § 190, as added Sept. 6, 1961, Pub. L. 87–206, § 16, 75 Stat. 479.)

§ 2241. Atomic safety and licensing boards; establishment; membership; functions; compensation.

(a) Notwithstanding the provisions of 7(a) and 8 (a) of the Administrative Procedure Act, the Commission is authorized to establish one or more atomic safety and licensing boards, each comprised of three members, one of whom shall be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission deems appropriate to the issues to be decided, to conduct such hearings as the Commission may direct and make such intermediate or final decisions as the Commission may authorize with respect to the granting, suspending, revoking or amending of any license or authorization under the provisions of this chapter, any other provision of law, or any regulation of the Commission issued thereunder. The Commission may delegate to a board such other regulatory functions as the Commission deems appropriate. The Commission may appoint a panel of qualified persons from which board members may be selected.

(b) Board members may be appointed by the Commission from private life, or designated from the staff of the Commission or other Federal agency. Board members appointed from private life shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of a board. The provisions of section 2203 of this title shall be applicable to board members appointed from private life. (Aug. 1, 1946, ch. 724, § 191, as added Aug. 29, 1962, Pub. L. 87–615, § 1, 76 Stat. 409, and amended Dec. 19, 1970, Pub. L. 91–560, § 10, 84 Stat. 1474.)

REFERENCES IN TEXT

Sections 7(a) and 8(a) of the Administrative Procedure Act, referred to in subsec. (a), were repealed in the general revision of Title 5, and the provisions are now covered by sections 556 and 557, respectively of Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–560 required that two members of the board should have such technical or other qualifications the Commission deems appropriate to the issues to be decided.

SUBCHAPTER XVI.—JOINT COMMITTEE ON ATOMIC ENERGY

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 15 of act Aug. 1, 1946, ch. 724. 60 Stat. 772 (formerly classified to section 1815 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2315 of this title.

§ 2251. Establishment of Committee; membership.

There is established a Joint Committee on Atomic Energy to be composed of nine Members of the Senate to be appointed by the President of the Senate, and nine Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. In each instance not more than five Members shall be members of the same political party. (Aug. 1, 1946, ch. 724, § 201, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956.)

§ 2252. Authority and duty.

The Joint Committee shall make continuing studies of the activities of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy. During the first ninety days of each session of the Congress, the Joint Committee may conduct hearings in either open or executive session for the purpose of receiving information concerning the development, growth, and state of the atomic energy industry. The Commission shall keep the Joint Committee fully and currently informed with respect to all of the Commission's activities. The Department of Defense shall keep the Joint Committee fully and currently informed with respect to all matters within the Department of Defense relating to the development, utilization, or application of atomic energy. Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the Commission or to the development, use, or control of atomic energy shall be referred to the Joint Committee. The members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee. (Aug. 1, 1946, ch. 724, § 202, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956, and amended Sept. 6, 1961, Pub. L. 87-206, § 17, 75 Stat. 479; Mar. 26, 1964, Pub. L. 88-294, 78 Stat. 172.)

AMENDMENTS

1964—Pub. L. 88-294 substituted "may conduct hearings" for "shall conduct hearings" in the second sentence.

1961—Pub. L. 87-206 substituted "ninety" for "sixty" days in the second sentence.

§ 2253. Chairman and Vice Chairman; vacancies in membership.

Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee, and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members at the beginning of each Congress. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman. The Chairmanship shall alternate between the Senate and the House of Representatives with each Congress, and the Chairman shall be selected by the Members from that House entitled to the Chairmanship. The Vice Chairman shall be chosen from the House other than that of the Chairman by the Members from that House. (Aug. 1, 1946, ch. 724, § 203, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 956.)

§ 2254. Powers.

In carrying out its duties under this chapter, the Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary: *Provided, however,* That no measure or recommendation shall be reported from the Joint Committee unless a majority of the committee assent. Subpenas may be issued over the signature of the Chairman of the Joint Committee or by any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The Joint Committee may use a committee seal. The provisions of sections 192 to 194 of Title 2, shall apply in case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee upon vouchers approved by the Chairman. The cost of stenographic service to report public hearings shall not be in excess of the amounts prescribed by law for reporting the hearings of standing committees of the Senate. The cost of stenographic service to report executive hearings shall be fixed at an equitable rate by the Joint Committee. Members of the Joint Committee, and its employees and consultants, while traveling on official business for the Joint Committee, may receive either the per diem allowance authorized to be paid to Members of Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher. (Aug. 1, 1946, ch. 724, § 204, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

§ 2255. Staff and assistance; utilization of Federal departments and agencies; armed protection.

The Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The Joint Committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government. The Joint Committee is authorized to permit such of its members, employees, and consultants as it deems necessary in the interest of common defense and security to carry firearms while in the discharge of their official duties for the committee. (Aug. 1, 1946, ch. 724, § 205, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

§ 2256. Classification of information.

The Joint Committee may classify information originating within the committee in accordance with standards used generally by the executive branch for classifying Restricted Data or defense information. (Aug. 1, 1946, ch. 724, § 206, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

§ 2257. Records.

The Joint Committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded. All committee records, data, charts, and files shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee or other places as the Joint Committee may direct under such security safeguards as the Joint Committee shall determine in the interest of the common defense and security. (Aug. 1, 1946, ch. 724, § 207, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 957.)

SUBCHAPTER XVII.—ENFORCEMENT OF CHAPTER

PRIOR PROVISIONS

Provisions similar to those comprising this subchapter were contained in section 16 of act Aug. 1, 1946, ch. 724, 60 Stat. 773 (formerly classified to section 1816 of this title) prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921.

§ 2271. General provisions.

(a) To protect against the unlawful dissemination of Restricted Data and to safeguard facilities, equipment, materials, and other property of the Commission, the President shall have authority to utilize the services of any Government agency to the extent he may deem necessary or desirable.

(b) The Federal Bureau of Investigation of the Department of Justice shall investigate all alleged or suspected criminal violations of this chapter.

(c) No action shall be brought against any individual or person for any violation under this chapter unless and until the Attorney General of the United States has advised the Commission with respect to such action and no such action shall be commenced except by the Attorney General of the United States: *Provided, however,* That no action shall be brought under section 2272, 2273, 2274, 2275, or 2276 of this title except by the express direction of the Attorney General: *And provided further,* That nothing in this subsection shall be construed as applying to administrative action taken by the Commission. (Aug. 1, 1946, ch. 724, § 221 as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 24, 1969, Pub. L. 91–161, § 5, 83 Stat. 445.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–161 provided that nothing in this subsection should be construed to apply to administrative action taken by the Commission.

§ 2272. Violation of specific sections.

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of sections 2077, 2122, or 2131 of this title, or whoever unlawfully interferes, attempts to interfere, or conspires to interfere with any recapture or entry under section 2138 of this title, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than ten years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both. (Aug. 1, 1946, ch. 724, § 222, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 24, 1969, Pub. L. 91–161, §§ 2, 3(a), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91–161 increased the maximum term of imprisonment from five years to ten years for the willful violation, or attempted violation of enumerated sections, and struck out the applicability of the death penalty for violation of the same offenses committed with the intent to injure the United States, or secure an advantage to any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 7 of Pub. L. 91–161 provided that: "The amendments contained in sections 2 and 3 of this Act [amending this section and sections 2274–2276 of this title] shall apply only to offenses under sections 222, 224, 225, and 226 [this section and sections 2272, 2274, 2275, and 2276 of this title] which are committed on or after the date of enactment of this Act [Dec. 24, 1969]. Nothing in section 2 or 3 of this Act shall affect penalties authorized under existing law for offenses under section 222, 224, 225, or 226 of the Atomic Energy Act of 1954, as amended, committed prior to the date of enactment of this Act [Dec. 24, 1969]."

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2271 of this title and title 5 section 8312.

§ 2273. Violation of sections generally.

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 2095 or 2201 (b), (i), or (o) of this title shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the

United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both. (Aug. 1, 1946, ch. 724, § 223, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 14, 1967, Pub. L. 90–190, § 12, 81 Stat. 578; Dec. 24, 1969, Pub. L. 91–161, § 6, 83 Stat. 445.)

AMENDMENTS

1969—Pub. L. 91–161 limited the application of this section to instances where no criminal penalties have been provided.

1967—Pub. L. 90–190 substituted "(o)" for "(p)".

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2271 of this title; title 5 section 8312.

§ 2274. Communication of Restricted Data.

Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $10,000 or imprisonment for not more than ten years, or both.

(Aug. 1, 1946, ch. 724, § 224, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 958, and amended Dec. 24, 1969, Pub. L. 91–161, § 3(b), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91–161 made the death penalty inapplicable for the willful violation, or attempted violation of this section with the intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274–2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2271, 2278, 2279 of this title and title 5 section 8312; title 18 section 2516.

§ 2275. Receipt of Restricted Data.

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data, shall upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine or not more than $20,000 or both. (Aug. 1, 1946, ch. 724, § 225, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, and amended Dec. 24, 1969, Pub. L. 91–161, § 3(b), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91–161 made the death penalty inapplicable for the willful violation, or attempted violation of this section with the intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274–2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2271, 2278, 2279 of this title and title 5 section 8312; title 18 section 2516.

§ 2276. Tampering with Restricted Data.

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating Restricted Data and used by any individual or person in connection with the production of special nuclear material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of special nuclear material, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both. (Aug. 1, 1946, ch. 724, § 226, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, and amended Dec. 24, 1969, Pub. L. 91–161, § 3(b), 83 Stat. 444.)

AMENDMENTS

1969—Pub. L. 91–161 made the death penalty inapplicable for the willful violation, or attempted violation of this section with the intent to injure the United States, or secure an advantage for any foreign nation.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Federal retirement benefits, forfeiture upon conviction of offense described hereunder, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274–2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2271, 2278, 2279 of this title and title 5 section 8312; title 18 section 2516.

§ 2277. Disclosure of Restricted Data.

Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of any agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Commission, or being or having been an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data, knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this chapter or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine of not more than $2,500. (Aug. 1, 1946, ch. 724, § 227, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959.)

CROSS REFERENCES

Conspiracy to commit offense, see section 371 of Title 18, Crimes and Criminal Procedure.

Wire or oral communications, authorization for interception, to provide evidence of offenses punishable by death or by imprisonment for more than one year under sections 2274–2277 of this title, see section 2516 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title and title 18 section 2516.

§ 2278. Statute of limitations.

Except for a capital offense, no individual or person shall be prosecuted, tried, or punished for any offense prescribed or defined in sections 2274 to 2276 of this title unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed. (Aug. 1, 1946, ch. 724, § 228, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title.

§ 2278a. Trespass upon Commission installations; issuance and posting of regulations; penalties for violation.

(a) The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, or in the custody of the Commission. Every such regulation of the Commission shall be posted conspicuously at the location involved.

(b) Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section shall, upon conviction thereof, be punishable by a fine of not more than $1,000.

(c) Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both. (Aug. 1, 1956, ch. 724, § 229, as added Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title.

§ 2278b. Photographing, etc., of Commission installations; penalty.

It shall be an offense, punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both—

(1) to make any photograph, sketch, picture, drawing, map or graphical representation, while present on property subject to the jurisdiction, administration or in the custody of the Commission, of any installations or equipment designated by the President as requiring protection against the general dissemination of information relative thereto, in the interest of the common defense and security, without first obtaining the permission of the Commission, and promptly submitting the product obtained to the Commission for inspection or such other action as may be deemed necessary; or

(2) to use or permit the use of an aircraft or any contrivance used, or designed for navigation or flight in air, for the purpose of making a photograph, sketch, picture, drawing, map or graphical representation of any installation or equipment designated by the President as provided in the preceding paragraph, unless authorized by the Commission.

(Aug. 1, 1946, ch. 724, § 230, as added Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2279 of this title.

§ 2279. Applicability of other laws.

Sections 2274 to 2278b of this title shall not exclude the applicable provisions of any other laws. (Aug. 1,

1946, ch. 724, § 231, formerly § 229, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, renumbered and amended Aug. 6, 1956, ch. 1015, §§ 6, 7, 70 Stat. 1070.)

AMENDMENTS

1956—Act Aug. 6, 1956, § 7, substituted "2274—2278b" for "2274—2278".

§ 2280. Injunction proceedings.

Whenever in the judgment of the Commission any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any regulation or order issued thereunder, the Attorney General on behalf of the United States may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the Commission that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. (Aug. 1, 1946, ch. 724, § 232, formerly § 230, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 959, renumbered Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2281. Contempt proceedings.

In case of failure or refusal to obey a subpena served upon any person pursuant to section 2201 (c) of this title, the district court for any district in which such person is found or resides or transacts business, upon application by the Attorney General on behalf of the United States, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both, in accordance with the subpena; and any failure to obey such order of the court may be punished by such court as a contempt thereof. (Aug. 1, 1946, ch. 724, § 233, formerly § 231, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 960, renumbered Aug. 6, 1956, ch. 1015, § 6, 70 Stat. 1070.)

FEDERAL RULES OF CIVIL PROCEDURE

Subpena, see rule 45, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 2282. Civil penalties for violations of licensing requirements; notice; collection of penalties.

(a) Any person who (1) violates any licensing provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, or 2139 of this title or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or (2) commits any violation for which a license may be revoked under section 2236 of this title, shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $5,000 for each such violation: *Provided,* That in no event shall the total penalty payable by any person exceed $25,000 for all violations by such person occurring within any period of thirty consecutive days. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Commission shall have the power to compromise, mitigate, or remit such penalties.

(b) Whenever the Commission has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of this section, it shall notify such person in writing (1) setting forth the date, facts, and nature of each act or omission with which the person is charged, (2) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or license involved in the violation, and (3) advising of each penalty which the Commission proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the Commission to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the Commission, if any, the penalty may be collected by civil action.

(c) On the request of the Commission, the Attorney General is authorized to institute a civil action to collect a penalty imposed pursuant to this section. The Attorney General shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to him for collection. (Aug. 1, 1946, ch. 724, § 234, as added Dec. 24, 1969, Pub. L. 91–161, § 4, 83 Stat. 444.)

SUBCHAPTER XVIII.—EURATOM COOPERATION

§ 2291. Definitions.

As used in this subchapter—

(a) "The Community" means the European Atomic Energy Community (EURATOM).

(b) The "Commission" means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended.

(c) "Joint program" means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this subchapter shall have the same meaning as terms described in section 2014 of this title. (Pub. L. 85–846, § 2, Aug. 28, 1958, 72 Stat. 1084.)

CODIFICATION

Section was enacted as part of EURATOM Cooperation Act of 1958, which constitutes this subchapter, and not as part of Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

SHORT TITLE

Section 1 of Pub. L. 85–846 provided that Pub. L. 85–846, which comprises this subchapter, should be popularly known as the "EURATOM Cooperation Act of 1958".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2293, 2295 of this title.

§ 2292. Appropriations for research and development program; authority to enter into contracts; period of contracts; equivalent amounts for research and development program.

There is authorized to be appropriated to the Commission, in accordance with the provisions of section 2017 (a) (2) of this title, the sum of $3,000,000 as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided,* That the Community authorizes an equivalent amount for use in the cooperative program of research and development. (Pub. L. 85–846, § 3, Aug. 28, 1958, 72 Stat. 1084.)

CODIFICATION

Section was enacted as part of EURATOM Cooperation Act of 1958, which constitutes this subchapter, and not as part of Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2296 of this title.

§ 2293. Guaranty contracts; amount of total contingent liability; purpose; period; criteria for selection of projects.

The Commission is authorized, within limits of amounts which may hereafter be authorized to be appropriated in accordance with the provisions of section 2017 (a) (2) of this title, to make guarantee contracts which shall in the aggregate not exceed a total contingent liability of $90,000,000 designed to assure that the charges to an operator of a reactor constructed under the joint program for fabricating, processing, and transporting fuel will be no greater than would result under the fuel fabricating and fuel life guarantees which the Commission shall establish for such reactor. Within the limits of such amounts, the Commission is authorized to make contracts under this section, without regard to the provisions of section 665 of Title 31 and section 5 of Title 41, for such periods of time as it determines to be necessary: *Provided, however,* That no such contracts may extend for a period longer than that necessary to cover fuel loaded into a reactor constructed under the joint program during the first ten years of the reactor operation or prior to December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2291 (c) of this title), whichever is earlier. In establishing criteria for the selection of projects and in entering into such guarantee contracts, the Commission shall be guided by, but not limited to, the following principles:

(a) The Commission shall encourage a strong and competitive atomic equipment manufacturing industry in the United States designed to provide diversified sources of supply for reactor parts and reactor fuel elements under the joint program;

(b) The guarantee shall be consistent with the provisions of this chapter and of Attachment A to the Memorandum of Understanding between the Government of the United States and the Community, signed in Brussels on May 29, 1958, and in Washington, District of Columbia, on June 12, 1958, and transmitted to Congress on June 23, 1958;

(c) The Commission shall establish and publish criteria for computing the maximum fuel element charge and minimum fuel element life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals.

(d) The guarantee by the manufacturer shall be as favorable as any other guarantee offered by the manufacturer for any comparable fuel element within a reasonable time period; and

(e) The Commission shall obtain a royalty-free, non-exclusive, irrevocable license for governmental purposes to any patents on inventions or discoveries made or conceived by the manufacturer in the course of development or fabrication of fuel elements during the period covered by the Commission's guarantee. (Pub. L. 85–846, § 4, Aug. 28, 1958, 72 Stat. 1084; Pub. L. 87–206, § 18, Sept. 6, 1961, 75 Stat. 479.)

CODIFICATION

Section was enacted as part of EURATOM Cooperation Act of 1958, which constitutes this subchapter, and not as part of Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

AMENDMENTS

1961—Subsec. (c). Pub. L. 87–206 substituted "criteria for computing the maximum fuel element charge and minimum fuel element life" for "minimum levels of fuel element cost and life."

§ 2294. Authorization for sale or lease of uranium and plutonium; amounts; lien for nonpayment; uranium enrichment services.

Pursuant to the provisions of section 2074 of this title, there is hereby authorized for sale or lease to the Community—

two hundred fifteen thousand kilograms of contained uranium 235;

one thousand five hundred kilograms of plutonium; and

thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 2153 of this title: *Provided,* That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the abovementioned contained uranium 235 pursuant to the provisions of section 2201(v)(B) of this title in lieu of sale or lease thereof. (Pub. L. 85–846, § 5, Aug. 28, 1958, 72 Stat. 1085; Pub. L. 87–206, § 19, Sept. 6, 1961, 75 Stat. 479; Pub. L. 88–394, § 5, Aug. 1, 1964, 78 Stat. 376; Pub. L. 90–190, § 13, Dec. 14, 1967, 81 Stat. 578.)

CODIFICATION

Section was enacted as part of EURATOM Cooperation Act of 1958, which constitutes this subchapter, and not as part of Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

AMENDMENTS

1967—Pub. L. 90–190 increased from seventy thousand to two hundred fifteen thousand kilograms of contained uranium 235 and from five hundred to one thousand five hundred kilograms of plutonium respectively the amount of material authorized to be sold or leased to the Community, and added the provision authorizing the Commission, after Dec. 31, 1968, to perform uranium enrichment services for the Community, pursuant to the provisions of section 2201(v)(B) of this title, in lieu of the sale or lease of such material.

1964—Pub. L. 88–394 increased the amount of contained uranium 235 from thirty thousand kilograms to seventy thousand kilograms, and plutonium, from nine kilograms to five hundred kilograms.

1961—Pub. L. 87–206 substituted "Nine kilograms" for "One kilogram" of plutonium and inserted item reading "Thirty kilograms of uranium 233" and "or agreements".

§ 2295. Acquisition of nuclear materials.

(a) Authorization; restriction of amounts of plutonium or uranium; amount and use of plutonium authorized to be acquired.

The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title: *Provided,* That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Terms and periods of contracts to acquire plutonium.

Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided,* That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2291 (c) of this title, whichever is earlier: *And provided further,* That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Terms and periods of contracts to acquire uranium.

Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided,* That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U–235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further,* That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Contracts for purchase of special nuclear materials.

Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of section 665 of Title 31.

(e) Certification by Commission.

Any contract made under this section may be made without regard to section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. (Pub. L. 85–846, § 6, Aug. 28, 1958, 72 Stat. 1085.)

CODIFICATION

Section was enacted as part of EURATOM Cooperation Act of 1958, which constitutes this subchapter, and not as part of Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

§ 2296. Nonliability of United States; indemnification.

The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided, however,* That nothing in this section shall deprive any person of any rights under section 2210 of this title: *And provided further,* That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 2292 of this title. The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section. (Pub. L. 85–846, § 7, Aug. 28, 1958, 72 Stat. 1086; Pub. L. 87–206, § 20, Sept. 6, 1961, 75 Stat. 479.)

CODIFICATION

Section was enacted as part of EURATOM Cooperation Act of 1958, which constitutes this subchapter, and not as part of Atomic Energy Act of 1954, which comprises subchapters I to XVII of this chapter.

AMENDMENTS

1961—Pub. L. 87–206 inserted proviso making the provisions of this section inapplicable to arrangements made by the Commission under a research and development program authorized by section 2292 of this title.

Chapter 24.—DISPOSAL OF ATOMIC ENERGY COMMUNITIES

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(e) Reduction or termination of assistance payments; determination by Commission of financial self-sufficiency.
2392. Reduction of payments.
2393. Payments in anticipation of services; withholding of payments.
2394. Contract to make payments.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 2301. Congressional declaration of policy.

It is declared to be the policy of the United States of America that Government ownership and management of the communities owned by the Atomic Energy Commission shall be terminated in an expeditious manner which is consistent with and will not impede the accomplishment of the purposes and programs established by the Atomic Energy Act of 1954. To that end, it is desired at each community to—

(a) facilitate the establishment of local self-government;

(b) provide for the orderly transfer to local entities of municipal functions, municipal installations, and utilities; and

(c) provide for the orderly sale to private purchasers of property within those communities with a minimum of dislocation. (Aug. 4, 1955, ch. 543, ch. 1, § 11, 69 Stat. 472.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in the text, is classified to chapter 23 of this title.

SHORT TITLE

Section 1 of act Aug. 4, 1955, provided that act Aug. 4, 1955, which enacted this chapter and amended section 1715n of Title 12, Banks and Banking, and section 243 (d) of Title 20, Education, should be popularly known as the "Atomic Energy Community Act of 1955".

SEPARABILITY OF PROVISIONS

Section 119 of act Aug. 4, 1955, provided that: "If any provisions of this Act [this chapter], or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act [this chapter] or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

§ 2302. Congressional findings.

The Congress of the United States makes the following findings concerning the communities owned by the Atomic Energy Commission:

(a) The continued morale of project-connected persons is essential to the common defense and security of the United States.

(b) In issuing rules and regulations required or permitted under this chapter for the disposal of the communities and in disposing of the communities in accordance with the provisions of this chapter and in

accordance with the rules and regulations required or permitted by this chapter, the Commission is acting under authority delegated to it by the Congress.

(c) Funds of the United States may be provided for the disposal of the communities and for assistance in the operation of the communities thereafter under conditions which will provide for the common defense and promote the general welfare. (Aug. 4, 1955, ch. 543, ch. 1, § 12, 69 Stat. 472.)

§ 2303. Purpose of chapter.

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) the maintenance of conditions which will not impede the recruitment and retention of personnel essential to the atomic energy program;

(b) the obligation of the United States to contribute to the support of municipal functions in a manner commensurate with—

(1) the fiscal problems peculiar to the communities by reason of their construction as national defense installations, and

(2) the municipal and other burdens imposed on the governmental or other entities at the communities by the United States in its operations at or near the communities;

(c) the opportunity for the residents of the communities to assume the obligations and privileges of local self-government; and

(d) the encouragement of the construction of new homes at the communities. (Aug. 4, 1955, ch. 543, ch. 1, § 13, 69 Stat. 472.)

§ 2304. Definitions.

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter—

(a) The term "Commission" means the Atomic Energy Commission.

(b) The term "community" means that area at—

(1) Oak Ridge, Tennessee, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Oak Ridge, Tennessee", bearing the legend "Boundary Line, Minimum Geographic Area, Oak Ridge, Tennessee" and marked "Approved, 21 April 1955, K. D. Nichols, General Manager"; or

(2) Richland, Washington, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Richland, Washington", bearing the legend "Boundary Line, Minimum Geographic Area, Richland, Washington" and marked "Approved, 21 April 1955, K. D. Nichols, General Manager;" or

(3) Los Alamos, New Mexico, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Los Alamos, New Mexico," bearing the legend "Boundary Line, Minimum Geographic Area, Los Alamos, New Mexico" and marked "Approved, April 5, 1962, A. R. Luedecke, General Manager."

(c) The term "house" includes the lot on which the house stands.

(d) The term "member of a family" means any person who, on the first offering date, resides in the same dwelling unit with one or more of the following relatives (including those having the same relationship through marriage or legal adoption): spouse, father, mother, grandfather, grandmother, brother, sister, son, daughter, uncle, aunt, nephew, niece, or first cousin.

(e) The term "mortgage" shall include deeds of trust and such other classes of lien as are given to secure advances on, or the unpaid purchase price of real estate under the laws of the State in which the real estate is located.

(f) The term "municipal installation" includes, without limitation, schools, hospitals, police and fire protection systems, sewerage and refuse disposal plants, water supply and distribution installations, streets and roads, libraries, parks, playgrounds and recreational means, municipal government buildings, other properties suitable for municipal or comparable local public service purposes, and any fixtures, equipment, or other property appropriate to the operation, maintenance or repair of the foregoing.

(g) The term "occupant" means a person who, on the date on which the property in question is first offered for sale, is entitled to residential occupancy of the Government-owned house in question, or of a family dwelling unit in such house, in accordance with a lease or license agreement with the Commission or its property-management contractor.

(h) The term "offering date" means the date the property in question is offered for sale.

(i) The term "project area" means that area which on August 4, 1955 constitutes the Federal area at Oak Ridge, Tennessee, or Hanford, Washington, or that area which, on the date Los Alamos is included within this chapter, constitutes the County of Los Alamos, New Mexico, excluding therefrom, however, that land which is, on said date, under the administrative control of the National Park Service of the Department of the Interior.

(j) The term "project-connected person" means any person who, on the first offering date, is regularly employed at the project area in one of the following capacities:

(1) An officer or employee of the Commission or any of its contractors or subcontractors, or of the United States or any agency thereof (including members of the Armed Forces), or of a State or political subdivision or agency thereof;

(2) An officer or employee employed at a school or hospital located in the project area;

(3) A person engaged in or employed in the project area by any professional, commercial, or industrial enterprise occupying premises located in the project area; or

(4) An officer or employee of any church or nonprofit organization occupying premises located in the project area.

(k) The term "resident" means any person who, on the date on which the property in question is first offered for sale is either—

(1) an occupant in a residential unit designated for sale at the community, or

(2) a project-connected person who is entitled, in accordance with a lease or similar agreement, to residential occupancy of privately owned rental housing in the community.

(*l*) The term "utility" means any electrical distribution system, any natural gas distribution system, any public transportation system, or any public communication system, and any fixtures, equipment, or other property appropriate to the operation, maintenance or repair of the foregoing.

(m) The terms "single" and "single family" when used in connection with "house" or "residential property" shall include each separate unit of a residental structure which the Commission has classified as a residential structure containing two or more separate single family units pursuant to section 2331(c) of this title. (Aug. 4, 1955, ch. 543, ch. 2, § 21, 69 Stat. 473; Sept. 28, 1962, Pub. L. 87-719, §§ 1—4, 76 Stat. 664.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-719, § 1, added clause (3).

Subsec. (i). Pub. L. 87-719, § 2, included in the definition of "project area" the County of Los Alamos, New Mexico, excluding land under administrative control of the National Park Service.

Subsec. (*l*). Pub. L. 87-719, § 3, included in the definition of "utility" any natural gas distribution system.

Subsec. (m). Pub. L. 87-719, § 4, added subsec. (m).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 164.

§ 2305. Powers of Atomic Energy Commission.

The Commission shall have all powers conferred by the Atomic Energy Act of 1954, including the power to make, promulgate, issue, rescind, and amend such rules, regulations, and delegations as may be appropriate to carry out the provisions of this chapter and shall be subject to the limitations contained in sections 2201 to 2209 of this title. Nothing contained in this chapter shall impair the powers vested in the Commission by the Atomic Energy Act of 1954, as amended, or any other law. (Aug. 4, 1955, ch. 543, ch. 11, § 111, 69 Stat. 483.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in the text, is classified to chapter 23 of this title.

§ 2306. Qualification to purchase.

No officer or employee of the Commission or of any other Federal agency (including officers and members of the Armed Forces) shall be disqualified from purchasing any property or exercising any right or privilege under this chapter, but no such officer or employee shall make any determination as to his own eligibility or priority, or as to valuation, price, or terms of sale and financing of property sold to him. (Aug. 4, 1955, ch. 543, ch. 11, § 112, 69 Stat. 483.)

§ 2307. Form and contents of contracts, mortgages, and other instruments.

Contracts entered into pursuant to this chapter and other instruments executed pursuant to this chapter shall be in such form and contain such provisions, consistent with this chapter, as the Commission shall prescribe; and shall be as simple and concise as possible. Any mortgage shall contain terms which will place the United States in the same position, with respect to any mortgages it may hold under the provisions of sections 2361 to 2366 of this title, as that occupied by a private lender under the applicable State laws for the relief of mortgagors with respect to deficiency judgments. (Aug. 4, 1955, ch. 543, ch. 11, § 113, 69 Stat. 483.)

§ 2308. Conclusive evidence of compliance with chapter.

A deed, lease, contract, or other instrument executed by or on behalf of the Commission purporting to transfer title or any other interest in property disposed of pursuant to this chapter shall be conclusive evidence of compliance with the provisions of this chapter and rules and regulations promulgated thereunder, insofar as concerns title or other interest of any bona fide grantee or transferee for value without notice of lack of such compliance, and his successors in title. (Aug. 4, 1955, ch. 543, ch. 11, § 114, 69 Stat. 483.)

§ 2309. Administrative review.

Determinations authorized by this chapter to be made by the Commission as to classification, priorities, prices, and terms and conditions of sale of property disposed under this chapter shall be subject to review only in accordance with such provisions for administrative review or reconsideration as the Commission may prescribe. (Aug. 4, 1955, ch. 543, ch. 11, § 115, 69 Stat. 483.)

§ 2310. Repossession of property; powers of Commission.

The Commission is authorized to repossess any property sold by it in accordance with the terms of any contract to purchase, mortgage or other instrument, and to sell or make any other disposition of any property so repossessed and any property purchased by it pursuant to section 2366 of this title. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Commission shall have power to deal with, complete, operate, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties acquired pursuant to this chapter, and to pursue to final collection, by way of compromise or otherwise, all claims arising pursuant to this section: *Provided,* That expenses authorized by this section shall be considered nonadministrative expenses: *Provided further,* That section 5 of Title 41 shall not apply to any contract entered into pursuant to this section if the amount thereof does not exceed $1,000. (Aug. 4, 1955, ch. 543, ch. 11, § 116, 69 Stat. 483; July 25, 1956, ch. 731, § 3, 70 Stat. 653.)

AMENDMENTS

1956—Act July 25, 1956 specifically enumerated powers of the Commission in relation to properties acquired pursuant to this chapter, authorized the final collection of claims by way of compromise or otherwise, to provide that expenses authorized by this section shall be considered nonadministrative expenses, and excepted contracts that do not exceed $1,000 from the provisions of section 5 of Title 41.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2311 of this title.

§ 2311. Community Disposal Operations Fund; availability; liquidating dividends.

(a) There is established as of June 30, 1956, a Community Disposal Operations Fund, and the Commission (or the head of such agency as may be carrying out the sales and financing functions of the Commission pursuant to a delegation by the President under section 2313 of this title) is authorized to credit said fund with all moneys hereafter obtained or now held by it and to account under said fund for all assets and liabilities held or acquired by it in connection with its sales and financing functions under this chapter, and to make temporary advances to such fund, from any other funds available for expenses of operations of such Commission or agency, as may be required to carry out such functions pending the realization of sufficient proceeds under the provisions of this chapter: *Provided,* That any such advances shall be repaid to the source appropriation or fund, to the extent of any unobligated balances available in the Community Disposal Operations Fund, prior to the close of the fiscal year during which such advances are made.

(b) The Community Disposal Operations Fund shall be available to pay for all necessary costs, expenses (including administrative expenses), losses or obligations incurred in connection with the aforesaid functions, including expenses incident to sale, or other transfer and any financing under section 2362 of this title, indemnities under sections 2363 to 2366 of this title, and expenses authorized by section 2310 of this title, and expenses in connection with the defense and payment of any claims for breaches of warranties and covenants of title of any property disposed of pursuant to this chapter.

(c) Any amount in said fund which is determined to be in excess of requirements for the purposes thereof shall be declared and paid as liquidating dividends to the Treasury, not less often than annually. (Aug. 4, 1955, ch. 543, ch. 11, § 117, 69 Stat. 483; July 25, 1956, ch. 731, § 4, 70 Stat. 654.)

AMENDMENTS

1956—Act July 25, 1956, amended section generally to establish the Community Disposal Operations Fund, to provide for its availability, and to require excess amounts to be paid as liquidating dividends to the Treasury. Former provisions of this section required that the net proceeds derived by the Commission from the disposal of property pursuant to this chapter were to be covered into the Treasury.

§ 2312. Appropriations.

(a) No appropriation shall be made to carry out the provisions and purposes of this chapter unless previously authorized by legislation enacted by Congress.

(b) There are authorized to be appropriated the sum of $518,000 at Oak Ridge, the sum of $2,215,000 at Richland and the sum of $8,719,000 at Los Alamos for construction, modification, or expansion of municipal installations and utilities authorized to be transferred pursuant to sections 2371 to 2375 and 2381 to 2386 of this title. (Aug. 4, 1955, ch. 543, ch. 11, § 118, 69 Stat. 484; July 25, 1956, ch. 731, §§ 5, 6, 70 Stat. 654; Sept. 28, 1962, Pub. L. 87–719, § 24, 76 Stat. 666; Dec. 14, 1967, Pub. L. 90–190, § 4, 81 Stat. 576.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–190 substituted provisions prohibiting the making of appropriations to carry out the provisions and purposes of this chapter unless previously authorized by legislation enacted by Congress for provisions granting authority to appropriate such sums as may be necessary and appropriate to carry out the provisions and purposes of this chapter.

1962—Subsec. (b). Pub. L. 87–719 authorized an appropriation of $8,719,000 at Los Alamos and use of appropriations for utilities.

1956—Subsec. (b). Act July 25, 1956, § 6, substituted "$2,215,000" for "$2,165,000".

Subsec. (c), which appropriated funds derived from the disposal of property to pay any costs, losses, expenses, or obligations incurred by the Commission, was repealed by act July 25, 1956, § 5, and is now covered by section 2311 (b) of this title.

§ 2313. Transfer of functions.

The President is authorized to delegate the duties and responsibilities placed on the Commission by this chapter to such other agencies of the United States Government as are reasonably qualified to perform those duties and responsibilities. The President may delegate any or all of the duties and responsibilities of the Commission in the operation of the communities to such other agencies of the United States Government that are reasonably qualified to perform those duties and responsibilities. The Commission shall retain no financing duties and responsibilities. (Aug. 4, 1955, ch. 543, ch. 10, § 101, 69 Stat. 482.)

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Urban Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

EX. ORD. NO. 10657. TRANSFER OF FUNCTIONS TO HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 10657, Feb. 14, 1956, 21 F.R. 1063, as amended by Ex. Ord. No. 10734, Oct. 17, 1957, 22 F.R. 8275; Ex. Ord. No. 11105, Apr. 18, 1963, 28 F.R. 3909, provided:

By virtue of the authority vested in me by the Atomic Energy Community Act of 1955 (69 Stat. 471) [this chapter], hereinafter called the Act, and particularly by section 101 thereof [this section], and as President of the United States, it is ordered as follows:

SECTION 1. There are hereby transferred to the Housing and Home Finance Administrator (hereafter called the Administrator) all of the functions, duties, and responsibilities of the Atomic Energy Commission (hereinafter called the Commission) under sections 34 to 36, inclusive, sections 51 to 55, inclusive, section 57, sections 61 to 66, inclusive, and section 116, of the Act [sections 2324—2326, 2341—2345, 2347, 2361—2366, 2310, respectively, of this title], and under the third sentence of section 32 of the Act [section 2322 of this title], with the following exceptions and qualifications:

(a) The Commission shall retain the power and duty of, and the responsibility for, (i) determining the property to be offered for disposal pursuant to section 52 [section 2342 of this title], the improvements to be designated as eligible for a credit under subsections 36a and 36b [section 2326 (a), (b) of this title], the extent to

which a lessee has been previously compensated for improvements under subsection 36a [section 2326 (a) of this title], and the provisions and procedures to be adopted pursuant to subsections 55b to 55e, inclusive [section 2345 (b)—(e) of this title], and (ii) removing or transferring property pursuant to subsections 52a (1) and 52a (2) [section 2342 (a) (1), (2) of this title].

(b) The Commission shall retain such duties and responsibilities under section 57a [section 2347 (a) of this title] as it shall specify and give notice thereof to the Administrator.

(c) The Administrator may reimburse the Federal Housing Commissioner, under the aforesaid third sentence of section 32 of the Act [section 2322 of this title], from the Community Disposal Operations Fund established under section 117 of the Act [section 2311 of this title].

SEC. 2. There shall be transferred to the administrator, who shall thereafter exercise full jurisdiction in connection therewith, all interests, rights, powers, duties, and responsibilities of the United States, including any interests, powers, rights, duties, and responsibilities of the Commission under the Act or any act, with respect to the following (except such interests, powers, rights, duties, and responsibilities as the Commission and the Administrator may mutually agree shall be retained by the Commission):

(a) The property designated for disposal by the Commission pursuant to section 52 of the Act [section 2342 of this title], including all interests, powers, rights, duties, and responsibilities arising as a result of deeds executed by the Commission pursuant to the provisions of subsection 57a of the Act [section 2347 (a) of this title].

(b) The deeds for church land and the deed to the State of Tennessee for National Guard purposes, executed by the Commission pursuant to the Atomic Energy Act of 1946, as amended [former section 1801 et seq. of this title], or the Atomic Energy Act of 1954, as amended [section 2011 et seq. of this title].

SEC. 3. The transfers specified in section 2 hereof shall be effective:

(a) As to each parcel of property offered for disposal pursuant to the provisions of section 52 of the Act [section 2342 of this title], on the date the Administrator executes a deed as provided in section 55 [section 2345 of this title], or a contract to purchase as provided in section 61 [section 2361 of this title], with respect to each such parcel of property; and

(b) In the case of deeds executed by the Commission pursuant to the provisions of subsection 57a of the Act [section 2347 (a) of this title], or referred to under subsection 2 (b) of this order, on the date of this order or the execution of such deeds, whichever is later.

SEC. 4. To the extent necessary or appropriate to enable him to perform or exercise the functions, duties, and responsibilities transferred to him by this order, the Administrator, and such officers or employees to whom he may delegate authority with respect to such functions, duties, and responsibilities, may perform or exercise any of the functions, duties, or responsibilities conferred upon the Commission by the Act, including, specifically, chapter 11 thereof [sections 2305—2312 of this title]. Any funds derived by the Commission from the disposal of property under the Act, including funds derived from the disposal of property under subsection 57a of the Act [section 2347 (a) of this title], shall be transferred to the Administrator, but shall otherwise remain subject to the provisions of section 117 and subsection 118c of the Act [sections 2311, 2312 (c) of this title].

SEC. 5. The Commission and the Administrator shall keep each other currently advised as to action taken pursuant to the Act, shall consult with each other on all matters arising under the Act or this order which either agency deems to be of mutual concern, and may jointly agree upon such further measures, not inconsistent with the Act or this order, as will promote the expeditious and effective accomplishment of the policy and purposes of the Act.

SEC. 6. Executive Order No. 9816 of December 31, 1946 [set out as a note under section 2031 of this title], is hereby amended to the extent that it may be inconsistent with this order.

SEC. 7. Nothing in this order shall invalidate any action taken by the Commission prior to the effective date of this order, or impair or affect any outstanding obligations or contracts of the Commission, or impair any power or authority of the Commission with respect to functions not transferred by or pursuant to this order. No person affected by any action taken by either the Commission or the Administrator, or by any person acting under authority delegated to him consonant, with law, shall be entitled to challenge the validity thereof or otherwise excuse his actions or failure to act on the grounds that pursuant to the provisions of this order such action was within the jurisdiction of the Commission rather than the Administrator or vice versa.

SEC. 8. Nothing in this order shall be applicable to the community of Los Alamos, New Mexico.

DWIGHT D. EISENHOWER

EX. ORD. NO. 10734

Section 2 of Ex. Ord. 10734, Oct. 17, 1957, 22 F.R. 8275, provided that:

"Each reference to 'the Act' in the said Executive Order No. 10657, as amended, shall be deemed to include, except as may be inappropriate, a reference to the Atomic Energy Community Act of 1955, as amended [this chapter]."

EX. ORD. NO. 11105. TRANSFER OF FUNCTIONS TO HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 11105, Apr. 18, 1963, 28 F.R. 3909, provided:

By virtue of the authority vested in me by the Atomic Energy Community Act of 1955 (69 Stat. 471), as amended [this chapter] (hereinafter called the Act) and particularly by Section 101 thereof [this section], and as President of the United States, it is ordered as follows:

SECTION 1. The provisions of Sections 2 to 8, inclusive, of this order shall be applicable to the community of Los Alamos, New Mexico, but shall not be applicable to the community of Oak Ridge, Tennessee, or to the community of Richland, Washington.

SEC. 2. There are hereby transferred to the Housing and Home Finance Administrator (hereinafter called the Administration) all of the functions, duties, and responsibilities of the Atomic Energy Commission (hereinafter called the Commission) (i) under Sections 34 to 36, inclusive, Sections 51 to 55, inclusive, Section 57, Sections 61 to 66, inclusive, and Section 116 of the Act [sections 2324—2326, 2341—2345, 2347, 2361—2366, 2310, respectively, of this title], (ii) under the last sentence of Section 56 of the Act [section 2346 of this title], and (iii) with respect to sales of apartment buildings to cooperatives under Section 58 of the Act [section 2348 of this title], with the following exceptions and qualifications:

(a) The Commission shall retain the power and duty of, and the responsibility for, (i) determining the property to be offered for disposal pursuant to Section 52 of the Act [section 2342 of this title], including the timing thereof, the improvements to be designated as eligible for a credit under subsections 36a and 36b [section 2326 (a), (b) of this title], the extent to which a lessee has been previously compensated for improvements under subsection 36a [section 2326(a) of this title], and the provisions and procedures to be adopted pursuant to subsections 55b to 55e [section 2345 (b)-(e) of this title], inclusive, and (ii) removing, transferring or designating property pursuant to subsections 52a(1), 52a(2), and 52a (3) [section 2342(a) (1), (2), and (3) of this title].

(b) The Commission shall retain all duties, functions and responsibilities under subsection 57b of the Act [section 2347(b) of this title], both as to existing lots and lots developed or to be developed under the Act or any other Act, except as the Commission and the Administrator may mutually agree should be transferred to the Administrator.

SEC. 3. There shall be transferred to the Administrator, who shall thereafter exercise full jurisdiction in connection therewith, all interests, rights, powers, duties, and responsibilities of the United States, including any interests, rights, powers, duties, and responsibilities of the Commission under the Act or any act (except such interests, rights, powers, duties, and responsibilities as the Commission and the Administrator may mutually agree shall be retained by the Commission), with respect to

the property designated by the Commission for disposal by the Administrator, pursuant to Section 52 of the Act [section 2342 of this title].

SEC. 4. The transfers specified in Section 3 hereof shall be effective as to each parcel of property offered for disposal pursuant to Section 52 of the Act [section 2342 of this title], on the date the Administrator executes a deed as provided in Section 55 [section 2345 of this title], or a contract to purchase as provided in Section 61 [section 2361 of this title], with respect to each such parcel of property.

SEC. 5. To the extent necessary or appropriate to enable him to perform or exercise the functions, duties, and responsibilities transferred to him by this order, the Administrator, and such officers or employees to whom he may delegate authority with respect to such functions, duties, and responsibilities, may perform or exercise any of the functions, duties, or responsibilities conferred upon the Commission by the Act, including, specifically, Chapter 11 [section 2305—2312 of this title] thereof. Any funds derived by the Commission from the disposal of property under the Act, including funds derived from the disposal of property under subsection 57b of the Act [section 2347(b) of this title], shall be transferred to the Administrator, but shall otherwise remain subject to the provisions of Section 117 of the Act [section 2311 of this title].

SEC. 6. The Commission and the Administrator shall keep each other currently advised as to action taken pursuant to the Act, shall consult with each other on all matters arising under the Act or this order which either agency deems to be of mutual concern, and may jointly agree upon such further measures, not inconsistent with the Act or this order, as will promote the expeditious and effective accomplishment of the policy and purposes of the Act.

SEC. 7. Executive Order No. 9816 of December 31, 1946 [set out as a note under section 2031 of this title], is hereby amended to the extent that it may be inconsisent with this order.

SEC. 8. Nothing in this order shall invalidate any action taken by the Commission prior to the effective date of this order, or impair or affect any outstanding obligations or contracts of the Commission, or impair any power or authority of the Commission with respect to functions not transferred by or pursuant to this order. No person affected by any action taken by either the Commission or the Administrator, or by any person acting under authority delegated to him consonant with law, shall be entitled to challenge the validity thereof or otherwise excuse his action or failure to act on the grounds that pursuant to the provisions of this order such action was within the jurisdiction of the Commission rather than the Administrator, or vice versa.

SEC. 9. Executive Order No. 10657 of February 14, 1956, as amended [set out as note under this section], is hereby further amended by adding at the end thereof a new Section 8, reading as follows:

SEC. 8. Nothing in this order shall be applicable to the community of Los Alamos, New Mexico.

JOHN F. KENNEDY

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2311 of this title.

§ 2314. Review of activities.

The Commission shall present to the Joint Committee on Atomic Energy of the Congress a full review of its activities under this chapter every three years in addition to any other presentation which may be required or requested by the Joint Committee. (Aug. 4, 1955, ch. 543, ch. 10, § 102, 69 Stat. 483.)

§ 2315. Applicability of sections 2251 to 2257 of this title.

The provisions of sections 2251 to 2257 of this title shall be applicable to all matters under this chapter. (Aug. 4, 1955, ch. 543, ch. 10, § 103, 69 Stat. 483.)

SUBCHAPTER II.—LOTS, APPRAISALS, AND PRICES

§ 2321. Lots; establishment of boundaries.

The Commission is authorized to plat each community immediately upon passage of this chapter, or immediately upon the inclusion of the community within the provisions of this chapter. The Commission may establish lot boundaries, and realine, divide, or enlarge existing tracts as it deems appropriate. (Aug. 4, 1955, ch. 543, ch. 3, § 31, 69 Stat. 474.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2345 of this title.

§ 2322. Appraisal of property.

The Commission shall proceed to secure appraisals of all property at the community which is to be sold pursuant to this chapter. The appraisals shall be made by the Secretary of Housing and Urban Development or his designee. The Secretary of Housing and Urban Development shall be reimbursed from the Community Disposal Operations Fund for the cost of such appraisals. Appraisals made under this section shall be the appraisals on which the Secretary of Housing and Urban Development may insure any mortgage or loan under the National Housing Act until such time as he finds that the appraisal values generally in the community no longer represent the fair market values of the properties. (Aug. 4, 1955, ch. 543, ch. 3, § 32, 69 Stat. 474; Sept. 28, 1962, Pub. L. 87–719, § 5, 76 Stat. 664; May 25, 1967, Pub. L. 90–19, § 11, 81 Stat. 23.)

REFERENCES IN TEXT

The National Housing Act, referred to in the text, is classified to chapter 13 of Title 12, Banks and Banking.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing.

1962—Pub. L. 87–719 substituted "The Federal Housing Commissioner shall be reimbursed from the Community Disposal Operations Fund for the cost of such appraisals" for "The Commission shall reimburse the Federal Housing Commissioner for the cost of such appraisals."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2326 of this title.

§ 2323. Basis of appraisal.

Except for lots sold pursuant to the provisions of section 2347 (a) of this title, the appraised value shall be the current fair market value of the Government's interest in the property. (Aug. 4, 1955, ch. 543, ch. 3, § 33, 69 Stat. 474.)

§ 2324. Posting of lists showing appraised value.

Lists showing the appraised value of each parcel of property to be offered for sale to priority purchasers shall, prior to the offering of such property for sale, be made available for public inspection, at reasonable times, at the offices of the Commission at the community. (Aug. 4, 1955, ch. 543, ch. 3, § 34, 69 Stat. 474.)

§ 2325. Sales price; appraised value of interest in commercial property.

(a) In the sale to priority purchasers of properties on which are located Government-owned single

or duplex houses, the sales price shall be the appraised value less a deduction of 15 per centum of the appraised value and less the deductions provided by section 2326 of this title.

(b) In all other cases the sales price to priority purchasers shall be the appraised value less the deductions provided by section 2326 of this title, except that sales made under sections 2343 (b) and 2343 (c) of this title shall be made at the prices set forth therein.

(c) The appraised value of the Government's interest in commercial property shall, in the cases where renegotiation of the lease is requested by the lessee under the provisions of section 2201 (e) of this title be based upon the renegotiated lease if any is agreed on. Where such renegotiations are requested, the sales proceedings shall not be initiated until the completion of the renegotiation. (Aug. 4, 1955, ch. 543, ch. 3, § 35, 69 Stat. 474; Aug. 21, 1957, Pub. L. 85–162, title II, § 202, 71 Stat. 410.)

AMENDMENTS

1957—Subsec. (c). Pub. L. 85–162 added subsec. (c).

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

The Atomic Energy Commission, the Federal Housing Administration, and the Housing and Home Finance Agency required to report to the Joint Committee by January 31, 1958, with respect to the renegotiations, reappraisals, and sales proceedings authorized under subsec. (c) of this section, see section 203 of Pub. L. 85–162, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2348 of this title.

§ 2326. Deductions from sales price.

(a) Improvements.

In addition to any other deduction which may be permitted from the sales price for property, there shall, upon application by the prospective purchaser, be deducted the amount by which the current fair market value of the Government's interest in the premises is enhanced as a result of improvements to the premises made by, or at the expense of, the prospective purchaser: *Provided,* That, with reference to commercial property, the improvement credit allowed shall be the value of the enhancement of the Government's interest in the property, as determined by the Commission on the basis of the appraisal provided for under section 2322 of this title: *Provided further,* That such credit shall be reduced to the extent that lessee has been previously compensated therefor, as determined by the Commission, under the terms of the lease or otherwise.

(b) Improvements by occupant of single family or duplex house.

An occupant of a single family or duplex house shall, upon application therefor, be entitled to a credit, against the purchase price of any residential property purchased through the exercise of a priority right established under the provisions of section 2332 of this title, for the amount by which the current fair market value of the Government's interest in the single family or duplex house of which he was an occupant is enhanced as a result of improvements to the premises of such single family or duplex house made by, or at the expense of, such occupant.

(c) Determination of value of improvements.

The value of the improvements as specified in subsections (a) and (b) of this section shall be determined in accordance with the provisions of section 2322 of this title.

(d) Additional deduction to persons purchasing property without benefit of indemnity provisions.

Persons purchasing property pursuant to the provisions of section 2342 of this title, who do not desire to avail themselves of the indemnity provisions contained in sections 2363 to 2366 of this title, shall be entitled to an additional deduction of 10 per centum of the appraised value of the property in addition to any other deduction set forth in this section. (Aug. 4, 1955, ch. 543, ch. 3, § 36, 69 Stat. 474; July 25, 1956, ch. 731, § 1, 70 Stat. 653; Sept. 28, 1962, Pub. L. 87–719, § 6, 76 Stat. 664.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719 substituted authorization of a credit for improvements by occupant of single family or duplex house for such improvements by junior occupant of duplex house.

1956—Subsec. (a). Act July 25, 1956 authorized an improvement credit for commercial property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2325, 2348, 2363 of this title.

SUBCHAPTER III.—CLASSIFICATION OF PROPERTY AND PRIORITIES

§ 2331. Classification of property.

(a) Immediately upon passage of this chapter, or, in the case of Los Alamos, upon its inclusion within this chapter, the Commission shall classify all real property (including such improvements and such fixtures, equipment and other personal property incident thereto as it may deem appropriate) within each community in accordance with such classifications as shall insure reasonably similar treatment for reasonably similar property. The Classification shall be made by such procedures, consistent with this subchapter, as it shall determine.

(b) The Commission may, but shall not be required to, classify any other real property at or in the vicinity of the community, whether within or outside of that community.

(c) Prior to the date any residential property is first offered for sale at Los Alamos, the Commission shall further classify each residential structure within the community of Los Alamos either as a single family house, a duplex house, an apartment house, a dormitory, or as a residential structure containing two or more separate single family units and shall post, at the offices of the Commission at Los Alamos, a list, available for public inspection at reasonable times, showing the classification of each such residential structure. For the purposes of this chapter, each such residential structure will thereafter be deemed to be a single family house, a duplex house, an apartment house, a dormitory, or a residential structure containing two or more separate single family units in accordance with its classification. In determining the classification of each such residential structure containing two or more single family units, the Commission shall consider (1) the practicability of selling separately the single

family units, and (2) the insurability of mortgages under section 1715n(a) of Title 12. (Aug. 4, 1955, ch. 543, ch. 4, § 41, 69 Stat. 475; Sept. 28, 1962, Pub. L. 87–719, §§ 7, 8, 76 Stat. 664.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–719, § 7, inserted ", or, in the case of Los Alamos, upon its inclusion within this chapter" following "chapter."

Subsec. (c). Pub. L. 87–719, § 8, added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2343 of this title.

§ 2332. Priorities; uniformity; preferences; impairment of rights.

The Commission shall establish, by rule or regulation, a detailed system of reasonable and fair priority rights applicable to the sale of Government-owned property to private purchasers at each community. The priorities shall—

(a) be uniform in each class or subclass of property;

(b) give such preference to occupants and project-connected persons and to incoming employees of the Commission, of a contractor, or of a licensee as the Commission finds necessary or desirable, giving due consideration to the following factors:

(1) The retention and recruitment of personnel essential to the atomic energy program;

(2) The minimization of dislocations within the community;

(3) The expeditious accomplishment of the disposal program; and

(4) The desirability of encouraging private firms to locate or remain in the community;

(c) give the occupant of a Government-owned single family house, and the senior occupant of a duplex house, at least ninety days in which to exercise the first right of priority;

(d) permit persons who have formerly been occupants, project-connected persons, or inhabitants of the community, upon application therefor, to have such priority as the Commission finds to be fair and equitable; and

(e) not impair any rights, including purchase rights, conferred by existing leases and covenants. (Aug. 4, 1955, ch. 543, ch. 4, § 42, 69 Stat. 475.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2326 of this title.

§ 2333. Transfer of priorities.

No priority shall be transferable, except—

(a) a husband and wife may exercise a priority in their joint names;

(b) a religious organization may exercise the priority which would otherwise belong to its priest, minister, or rabbi, regardless of whether that position happens to be filled at the time of the exercise of the priority;

(c) two or more priority holders having a common interest in a building or location may assign their interests to a single assignee; and

(d) the Commission may permit such other transfers as it finds to be fair and equitable. (Aug. 4, 1955, ch. 543, ch. 4, § 43, 69 Stat. 476.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2348 of this title.

SUBCHAPTER IV.—SALES OF PROPERTY FOR PRIVATE USE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2362 of this title.

§ 2341. Applicability of subchapter.

The provisions of this subchapter shall be made applicable at each community as soon as the Commission makes a finding in writing that there is a reasonable possibility that the Government-owned real property at such community can be disposed of in accordance with the provisions of this subchapter. (Aug. 4, 1955, ch. 543, ch. 5, § 51, 69 Stat. 476.)

§ 2342. Disposal of property.

(a) Property under lease or license agreement.

The Commission shall offer for disposal all real property (including such improvements thereon and such fixtures, equipment, and other personal property incident thereto as it may deem appropriate) within the community which is presently under lease or license agreement with the Commission or its community management contractor for residential, commercial or industrial, agricultural, church or other nonprofit use, or which, in the opinion of the Commission, is appropriate for such use, other than—

(1) structures which in the opinion of the Commission should be removed from the community because of their unsatisfactory type of construction, condition, or location; or

(2) property which in the opinion of the Commission should be transferred pursuant to sections 2371 to 2375 or 2381 to 2386 of this title; or

(3) property which in the opinion of the Commission should be retained by the Commission for its own use.

(b) Discretionary disposal of other real property.

The Commission may, but shall not be required to, dispose of any other real property at the community, whether within or outside of that community.

(c) Terms and conditions; impairment of rights.

Such property shall be disposed of on such terms and conditions, consistent with this subchapter, as the Commission shall prescribe in the national interest, and without regard to any preferences or priorities whatever except those provided for pursuant to this chapter. Transfers by the Commission of such property shall not impair rights under existing leases and covenants, including any purchase rights therein conferred. (Aug. 4, 1955, ch. 543, ch. 5, § 52, 69 Stat. 476; Sept. 28, 1962, Pub. L. 87–719, § 9, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–719 added clause (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2326, 2343, 2345 of this title.

§ 2343. Sales.

(a) Notice to priority holders.

Where rights of priority have been granted pursuant to the provisions of this chapter to Government-owned property, it shall be offered for sale to

priority purchaser by giving notice to those eligible for such priority. Such notice shall (1) be in such manner as the Commission shall prescribe, (2) identify the property to be sold, and (3) state the terms and conditions of sale and the date of the offer which, in the case of occupants of single family or duplex houses, shall expire not less than ninety days after the date of the offer.

(b) Sale of property to highest bidder.

Any property (other than church property) classified for sale under section 2331 of this title and offered for sale under section 2342 of this title, as to which no priority right has been conferred, or as to which all priority rights have expired, shall be advertised for sale to the highest bidder, subject to the right of the Commission to reject any or all bids. No bid shall be accepted which is below the appraised value or, in the case of Government-owned single and duplex houses is below 85 per centum of the appraised value.

(c) Disposal of property not sold at auction.

As to any property which has not been sold under subsection (b) of this section within ninety days after the first advertisement for sale under such subsection the Commission may make such disposition, on such terms and conditions, as it may deem appropriate.

(d) Church property.

Property for use of churches, in respect of which all priority rights have expired, may be disposed of by advertising and competitive bid, or by negotiated sale or other transfer at such prices, terms, and conditions as the Commission shall determine to be fair and equitable. (Aug. 4, 1955, ch. 543, ch. 5, § 53, 69 Stat. 476; Aug. 30, 1961, Pub. L. 87–174, 75 Stat. 409; Sept. 28, 1962, Pub. L. 87–719, §§ 10, 11, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719, § 10, deleted from the first sentence, after "bids" the words ", and also subject to the right of an occupant of a Government-owned single family or duplex house to buy such house by paying an amount equal to the highest bid."

Subsec. (c). Pub. L. 87–719, § 11, deleted the clause ", but the Commission shall give an occupant of a Government-owned single family or duplex house such further opportunity to purchase such house as shall be fair and equitable."

1961—Subsec. (c). Pub. L. 87–174 substituted "ninety days" for "one year."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2325 of this title.

§ 2344. Cash sales.

All sales shall be for cash, and the buyer shall arrange for the necessary financing, except as provided in sections 2361 to 2366 of this title. (Aug. 4, 1955, ch. 543, ch. 5, § 54, 69 Stat. 477.)

§ 2345. Deeds; form and provisions.

Deeds executed in connection with the disposal of property pursuant to the provisions of this chapter—

(a) shall be as simple as the Commission shall find to be appropriate, and may contain such warranties or covenants of title and other provisions (including any indemnity) as the Commission may deem appropriate;

(b) with respect to any dormitories or apartment houses and any property used or to be used for construction of housing developments for rental purposes, may retain or acquire such rights to the Commission to designate the future occupants of part or all of such properties as it may deem appropriate to insure the availability of housing for employees of the Commission and its contractors;

(c) may require that the transferee, his heirs, successors, and assigns shall compensate the Commission for any municipal services provided by the Commission at rates which will not be in excess of the average tax for such services in the immediate vicinity of the community; and any amounts due and unpaid for such compensation (together with interest and costs thereon) shall, as of the date on which such amounts become delinquent, be a lien in favor of the United States upon the premises sold by the Commission, though not valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed in accordance with the laws of the State in which the property is situated or in the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, if such State has not by law provided for the filing of such notice;

(d) in transferring any property pursuant to sections 2321 and 2342 of this title, may impose such restrictions and requirements relating to the use of the premises and to public health and safety, as the Commission may deem appropriate, which restrictions and requirements shall not be valid beyond one year after the incorporation of the city at the community or after June 30, 1966, in the case of Los Alamos; and

(e) may require that any payments in lieu of property taxes or assessments for local improvements made by the Commission with respect to the property shall be equitably prorated. (Aug. 4, 1955, ch. 543, ch. 5, § 55, 69 Stat. 477; Sept. 28, 1962, Pub. L. 87–719, § 12, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (d). Pub. L. 87–719 added "or after June 30, 1966, in the case of Los Alamos" following "community."

§ 2346. Occupancy by existing tenants.

Upon application by any occupant of a single or duplex house made within the period of the first priority when such house is first offered for sale under this chapter, the Commission shall execute a lease to such occupant for a period not to exceed one year from the date on which such property is first offered for sale, or for such period as he remains a project-connected person, whichever is shorter. In selling any house with respect to which a lease executed under this section is in effect, the Commission may provide that the purchaser shall assume any or all obligations of the lessor, but the Commission shall guarantee the lessee's performance under the terms of the lease. (Aug. 4, 1955, ch. 543, ch. 5, § 56, 69 Stat. 478.)

§ 2347. Sale of lots to lessees or individual owners.

(a) Notwithstanding any other provision of this chapter, the Commission is authorized, immediately upon passage of this chapter, or immediately upon

the inclusion of the community within the provisions of this chapter, to offer for sale to the lessees single residential lots, which were leased by competitive bid and which do not have a Government-owned building thereon, at a price equal to the initial valuation of the lot as stated in the lease.

(b) The Commission is authorized to offer for sale, as soon as possible, other lots, to individual owners, upon which single family or duplex houses may be erected, taking into consideration the zoning restrictions the new city is likely to enact with respect to those lots. The zoning restrictions to be taken into account at Los Alamos shall be those which the local government is likely to enact with respect to those lots. (Aug. 4, 1955, ch. 543, ch. 5, § 57, 69 Stat. 478; Sept. 28, 1962, Pub. L. 87–719, § 13, 76 Stat. 665.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719 added the provision that "The zoning restrictions to be taken into account at Los Alamos shall be those which the local government is likely to enact with respect to those lots."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2322 of this title.

§ 2348. Priority sale of apartment houses.

(a) Grantees eligible; priorities; applicability of deduction, financing and indemnity provisions.

The Commission is authorized at Los Alamos to grant to occupants, project-connected persons, and persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, and to any of the foregoing persons acting together, such priority interests and priority rights for the purchase of the apartment house as the Commission determines to be fair and reasonable: *Provided,* That a first priority right to purchase may be granted only to an occupant or a group of occupants, or an assignee (whose membership or ownership is composed of occupants, or project-connected persons, or persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, or any of the foregoing persons) of the priority interests of such occupants, who or which has obtained the priority interest of at least 60 per centum of the occupants of the apartment house: *Provided further,* That a second priority right to purchase may be granted only to an entity whose membership or ownership consists of occupants, or project-connected persons, or persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, or any of the foregoing persons (provided that such entity has obtained the priority interest of at least one occupant), and whose membership or ownership equals in number, and occupies or agrees to occupy, at least 70 per centum of the housing units in the apartment house. The 15 per centum deduction specified by section 2325(a) of this title, the deduction provided by section 2326(d) of this title, the financing provisions of section 2362 of this title, and the indemnity provided by sections 2363 to 2366 of this title shall be applicable to such priority sales of apartment houses. Priority interests granted by the Commission under this section shall be transferable as the Commission may by rule or regulation prescribe, but no priority right to purchase shall be transferred except as provided by section 2333 of this title.

(b) Leasing arrangements by non-participants in apartment house sales; assumption of lessor's obligations.

Any occupant who does not participate in the purchase of an apartment house with respect to which a priority right to purchase has been granted shall be entitled, at the time of sale by the Commission, to a lease for occupancy of his housing unit for a period not to exceed fifteen months from the date the property was first offered for sale: *Provided,* That the occupant makes application for such a lease within 30 days of the grant of such priority to purchase. In selling any apartment house with respect to which lease executed under this section is in effect, the Commission is authorized to provide for the purchaser to assume any or all obligations of the lessor. The Commission in such event shall guarantee the lessee's performance of the lease.

(c) Eligibility to participate in priority purchase.

Persons who have purchased, either individually or jointly with other persons, a single-family house or duplex house (or a single-family unit in a duplex house) at Los Alamos pursuant to a priority right under this chapter shall not be eligible to participate in the priority purchase of an apartment house.

(d) Rules and regulations.

The Commission is authorized to prescribe by rule or regulation such other conditions as it may find necessary or desirable for qualification of priority interests and rights for the purchase of an apartment house. (Aug. 4, 1955, ch. 543, ch. 5, § 58, as added Sept. 28, 1962, Pub. L. 87–719, § 14, 76 Stat. 665, and amended Dec. 14, 1967, Pub. L. 90–190, § 1, 81 Stat. 575.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–190 redesignated existing provisions as subsec. (a) and as so designated added reference to Los Alamos, increased the types of grantees eligible to purchase apartment houses from cooperatives, the entire membership of which is restricted to project-connected persons, added the provisos which altered the priority right to purchase such apartment houses so as to create a first priority and second priority in lieu of the provision that the priority with respect to each cooperative shall terminate within such time as the Commission may prescribe if the cooperative has not obtained 100% initial membership consisting of project-connected persons, and struck out the definition of "cooperative" as used in this section as a corporation or a trust of the character described in section 1715e(a)(1) of Title 12.

Subsecs. (b)—(d). Pub. L. 90–190 added subsecs. (b)—(d).

§ 2349. Hanford project; disposal of property.

In addition to any other authority the Commission may have, the Commission is authorized, without regard to the provisions of section 5 of Title 41, to lease land, and to sell, lease, including leases with options to purchase, and otherwise dispose of improvements thereon, and such equipment and other personal property as is determined to be directly related thereto, in the Commission's Hanford project in and near Richland, Washington, upon a determination by the Commission that such disposition will serve to prevent or reduce the adverse economic impact of actual or anticipated reductions in Com-

mission programs in that area: *Provided, however,* That the compensation to the Government for any such disposition shall be the estimated fair market value or estimated fair rental value of the property as determined by the Commission: *Provided further,* That before the Commission makes any disposition of property under the authority of this section, the basis for the proposed disposition (with necessary background and explanatory data) shall be submitted to the Joint Committee on Atomic Energy, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five-days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days): *Provided, however,* That the Joint Committee on Atomic Energy, after having received the basis for the proposed disposition, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period. (Aug. 4, 1955, ch. 543, ch. 11, § 120, as added Aug. 1, 1964, Pub. L. 88–394, § 4, 78 Stat. 376.)

SUBCHAPTER V.—FINANCING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2307, 2344 of this title.

§ 2361. Contract to purchase by priority purchaser.

The Commission may, in the sale of any single-family or duplex house to a priority purchaser, enter into a contract to purchase which provides that the purchaser shall conclude his purchase within not more than three years after the date the contract is entered into. Such contracts to purchase shall provide for such periodic payments, including payments on account of principal, interest, or tax equivalents, as the Commission shall prescribe. (Aug. 4, 1955, ch. 543, ch. 6, § 61, 69 Stat. 478.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 164.

§ 2362. Financing by Commission; advances; acceptance of notes; sale of notes and mortgages.

(a) In the event that the Commission finds that financing on reasonable terms is not available from other sources, the Commission may, in order to facilitate the sale of residential property under sections 2341 to 2347 of this title, accept, in partial payment of the purchase price of any such property notes secured by first mortgages on such terms and conditions as the Commission shall deem appropriate. In the case of houses and apartment buildings, the maturity and percentage of appraised value in connection with such notes and mortgages shall not exceed those prescribed under section 1715n(a) of Title 12, and the interest rate shall equal the interest rate plus the premium being charged (and any periodic service charge being authorized by the Secretary of Housing and Urban Development for properties of similar character) under section 1715n (a) of Title 12, at the effective date of such notes and mortgages.

(b) In connection with the sale of residential property financed under subsection (a) of this section, the Commission is authorized to make advances for necessary repairs, or for the rehabilitation, modernization, rebuilding or enlargement of single and duplex residential properties to priority purchasers, and to include such advances in the amount of the note secured by the mortgage on such property.

(c) In the event that the Commission finds that financing on reasonable terms is not available from other sources, the Commission may, in order to facilitate the sale of commercial property under sections 2341 to 2347 of this title, accept, in partial payment of the purchase price of any commercial property notes secured by first mortgages on such terms and conditions as the Commission shall deem appropriate.

(d) The Commission may sell any notes and mortgages acquired under subsections (a) and (c) of this section on terms set by the Commission. Notwithstanding any other provisions of law and without regard to the provisions of section 5 of Title 41, the Commission may, in accordance with such terms and conditions as it may prescribe, (1) enter into contracts for servicing any of the notes and mortgages it has acquired, and (2) sell or enter into contracts to sell to a servicer any notes and mortgages with respect to which a servicing contract has been entered into by the servicer with the Commission: *Provided,* That with respect to sales of notes and mortgages under (2) the Commission shall comply with section 5 of Title 41 unless it determines that such compliance would not be feasible. (Aug. 4, 1955, ch. 543, ch. 6, § 62, 69 Stat. 478; July 26, 1956, ch. 731, § 2, 70 Stat. 653; Sept. 28, 1962, Pub. L. 87–719, §§ 15, 16, 76 Stat. 665; May 25, 1967, Pub. L. 90–19, § 11, 81 Stat. 23.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1962—Subsec. (a). Pub. L. 87–719, § 15, substituted "such property" for "house, apartment building, or dormitory."

Subsec. (d). Pub. L. 87–719, § 16, added the provisions respecting servicing contracts and compliance with advertising requirements for public purchases when feasible.

1956—Subsec. (a). Act July 25, 1956 reenacted subsec. (a) without change.

Subsecs. (b) and (c). Act July 25, 1956 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

Subsec. (d), formerly (b). Act July 25, 1956 redesignated former subsec. (b) as (d) and included notes and mortgages acquired under subsec. (c) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2348 of this title.

§ 2363. Indemnity obligation of Commission; incorporation by reference in deed.

For a period of not more than fifteen years after August 4, 1955, or, in the case of Los Alamos, not more than fifteen years after the date it is included within this chapter, the Commission shall indemnify the purchaser (except a purchaser taking advantage of the provisions of section 2326(d) of this title), and any successor in title, of any such single family or duplex house as set forth in this subchapter. This indemnity shall be deemed to be incorporated in the deeds given on the sale of Government-owned houses. One person may not invoke the indemnity

in respect of more than one house. (Aug. 4, 1955, ch. 543, ch. 6, § 63, 69 Stat. 479; Sept. 28, 1962, Pub. L. 87–719, § 17, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87–719 inserted "or, in the case of Los Alamos, not more than fifteen years after the date it is included within this chapter" following "August 4, 1955."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2326, 2348, 2364, 2365, 2366 of this title.

§ 2364. Same; community employment and population.

The indemnity obligation specified in section 2363 of this title shall arise only if, for the six months just preceding the date on which it is invoked—

(a) the total number of operating, maintenance, and administrative employees in the project area, as determined by the Commission, has been less than fourteen thousand three hundred and thirty-seven in the case of Oak Ridge or seven thousand six hundred and twenty-two in the case of Richland or four thousand six hundred and twenty in the case of Los Alamos; and

(b) the population in the community has been less than twenty-nine thousand two hundred and fifty in the case of Oak Ridge or twenty-five thousand two hundred in the case of Richland or eleven thousand seven hundred and sixty-nine in the case of Los Alamos.

For purposes of this section employment shall be determined on the basis of the pay period or periods ending nearest the 15th of each month. (Aug. 4, 1955, ch. 543, ch. 6, § 64, 69 Stat. 479; Sept. 28, 1962, Pub. L. 87–719, §§ 18, 19, 76 Stat. 666.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–719, § 18, added "or four thousand six hundred and twenty in the case of Los Alamos" following "Richland."

Subsec. (b). Pub. L. 87–719, § 19, added "or eleven thousand seven hundred and sixty-nine in the case of Los Alamos" following "Richland."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2326, 2348, 2366 of this title.

§ 2365. Amount of indemnity.

The indemnity obligation of the Commission specified in section 2363 of this title shall be for such amount, less the sales price of the property, as would have remained unpaid under a loan entered into on the date of the execution of the original deed by the Commission—

(1) which was in the amount of the purchase price from the Commission and provided for equal monthly payments of principal and interest over a period of twenty years computed on the basis of the average interest and other charges recorded for property of the same class at the community; and

(2) on which all payments due to the date when notice was received by the Commission had been made.

(Aug. 4, 1955, ch. 543, ch. 6, § 65, 69 Stat. 479.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2311, 2326, 2348, 2366 of this title.

§ 2366. Conditions of indemnity; purchase of property by Commission.

The Commission shall make the indemnity payment specified by section 2365 of this title only if the Commission receives a notice from the then owner of the property that he is about to sell the property for a sum less than the unpaid balance of the real or hypothetical loan calculated pursuant to such section. Such payment shall be made only if—

(a) notice is given to the Commission at a time when the conditions of section 2364 of this title are satisfied;

(b) the sale is made within such time as the Commission may prescribe and in a manner which the Commission determined to afford adequate assurance of a fair price without excessive costs; and

(c) the Commission is given such prior notice of the sale and such opportunity to become a purchaser as it shall prescribe.

In such circumstances the Commission is authorized to purchase the property. Sales pursuant to this section and payment by the Commission of such amount, if any, as is owing pursuant to sections 2363 to 2366 of this title shall end the obligation of the Commission under sections 2363 to 2366 of this title with respect to that property. (Aug. 4, 1955, ch. 543, ch. 6, § 66, 69 Stat. 479.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2310, 2311, 2326, 2348 of this title.

SUBCHAPTER VI.—UTILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2342 of this title.

§ 2371. Transfer of utilities.

The Commission is authorized to transfer to one or more of the entities specified in this subchapter such utilities as in the judgment of the Commission will be appropriate to enable the transferee to meet the needs of the residents of the community for adequate utility services of the kind to be transferred. (Aug. 4, 1955, ch. 543, ch. 7, § 71, 69 Stat. 480.)

§ 2372. Date of transfer of utilities.

Transfers of utilities shall be made as soon as possible, but in any event, not later than five years after August 4, 1955 in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter. (Aug. 4, 1955, ch. 543, ch. 7, § 72, 69 Stat. 480; Sept. 28, 1962, Pub. L. 87–719, § 20, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L 87–719 added "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter" following "August 4, 1955."

§ 2373. Transfer to governmental or other legal entity; determination of transferee.

(a) Transfer may be made to one or more of the following, if the transferee has the legal authority to receive and operate the utility.

(1) the city at the community;

(2) the State in which the community is located;

(3) any political subdivision or agency of that State; or

(4) any person, firm, corporation, or other legal entity.

(b) In determining the transferee for any utility, the Commission may consider the following:

(1) the pattern of ownership of the comparable utilities in the State in which the community is located;

(2) the ability of the transferee to operate the utility;

(3) the probable price of the sale of the utility, the ability of the transferee to pay that price, and any probable expense;

(4) the desires of the eligible voters of the community as directly expressed in any vote in any officially recognized procedure or in any procedure established by the Commission; and

(5) the benefit to the United States in reducing possible requirements for local assistance as authorized in sections 2381 to 2386 and 2391 to 2394 of this title.

(Aug. 4, 1955, ch. 543, ch. 7, § 73, 69 Stat. 480.)

§ 2374. Utilities transferable.

All utilities are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use. (Aug. 4, 1955, ch. 543, ch. 7, § 74, 69 Stat. 480.)

§ 2375. Gift of utility to city; charges and terms for utilities transferred to other transferees.

The Commission may give the utility to the city incorporated at the community; and must charge in selling the utility to any other transferee: *Provided,* That at Los Alamos, utilities may be given to the county or other local governmental entity. The charges and terms for the transfer of any utility may be established by advertising and competitive bid, or by negotiated sale or other transfer at such prices, terms, and conditions as the Commission shall determine to be fair and equitable. (Aug. 4, 1955, ch. 543, ch. 7, § 75, 69 Stat. 480; Sept. 28, 1962, Pub. L. 87-719, § 21, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 inserted ": *Provided,* That at Los Alamos, utilities may be given to the county or other local governmental entity" following "transferee."

SUBCHAPTER VII.—MUNICIPALITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2312, 2342, 2373 of this title.

§ 2381. Assistance in organization.

The Commission is authorized, for a period not to extend beyond five years after August 4, 1955 in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not to extend beyond five years after the date it is included within this chapter, to cooperate with and assist the residents of the community in preparation for and establishment of local self-government and in the transfer of municipal installations and responsibilities to local entities. Such assistance may include payment of any amounts reasonably necessary to meet expenses incident to the establishment and organization of a city government and other local entities at the community, until such time as the municipal installations are transferred in accordance with the provisions of this subchapter. (Aug. 4, 1955, ch. 543, ch. 8, § 81, 69 Stat. 480, Sept. 28, 1962, Pub. L. 87-719, § 22, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 inserted "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not to extend beyond five years after the date it is included within this chapter" following "August 4, 1955."

§ 2382. Transfer of municipal installations.

The Commission is authorized to transfer to one or more of the entities specified in this subchapter such municipal installations as in the judgment of the Commission, will be appropriate to enable the transferees to meet the needs of the residents of the community for adequate school, hospital, and other municipal services. (Aug. 4, 1955, ch. 543, ch. 8, § 82, 69 Stat. 480.)

§ 2383. Date of transfer.

Transfers of municipal installations may be made at any time, not later than five years after August 4, 1955 in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter. (Aug. 4, 1955, ch. 543, ch. 8, § 83, 69 Stat. 481, Sept. 28, 1962, Pub. L. 87-719, § 23, 76 Stat. 666.)

AMENDMENTS

1962—Pub. L. 87-719 added "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter" following "August 4, 1955."

§ 2384. Transfer to governmental entity or private nonprofit organization; determination of transferee.

(a) Transfers may be made to one or more of the following, if the entity has the legal authority to receive the installation: (1) the city at the community; (2) the State in which the community is located; (3) any political subdivision or agency of that State; or (4) a private nonprofit organization in the case of the hospital installation or cemetery at the community.

(b) In determining the entity to which school, hospital, and other municipal installations, respectively, shall be transferred, the Commission shall be governed, in order, by

(1) the results of a vote in which the eligible voters in the community expressed themselves directly on the transfer in the vote on the incorporation of the city;

(2) the results of a vote in which the eligible voters have directly expressed themselves on the proposed transfer in a referendum or other officially recognized procedure;

(3) there being only one entity which is legally authorized to receive the municipal installation; or

(4) in the absence of the other alternatives, the Commission has conducted a vote of the eligible voters of the community on the proposed transfer under such procedures as it may establish.

(Aug. 4, 1955, ch. 543, ch. 8, § 84, 69 Stat. 481.)

§ 2385. Installations transferable.

All municipal installations are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use. (Aug. 4, 1955, ch. 543, ch. 8, § 85, 69 Stat. 481.)

§ 2386. Transfer of installations without charge.

The transfer of any municipal installation authorized to be made under the provisions of this subchapter may be made without charge to the entity receiving the installation. (Aug. 4, 1955, ch. 543, ch. 8, § 86, 69 Stat. 481.)

SUBCHAPTER VIII.—LOCAL ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2373 of this title.

§ 2391. Assistance to governmental entities.

(a) Annual assistance payments; extensions; determination of amount and recipient.

From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Commission shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* with respect to the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, the Commission is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period. In determining the amount and recipient of such payments the Commission shall consider—

(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the atomic energy program;

(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single purpose national defense installation under emergency conditions;

(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations.

(b) Special interim payments.

Special interim payments may be made under the provisions of this section to any governmental entity which—

(1) has a special burden due to the requirements under law imposed upon it in assisting in effectuating the purposes of this chapter for which it will not otherwise receive adequate compensation or revenues; or

(2) will suffer a tax loss or lapse in place of which it will not receive any other adequate revenues until the new governmental entities contemplated by this subchapter are receiving their normal taxes and performing their normal functions.

(c) Payments for special burdens.

Payments made under this section shall be payments made for special burdens imposed on the local governmental entities in accordance with the second sentence of section 2208 of this title. Payments may be made under this section notwithstanding the provisions of sections 236 to 244, 245 of Title 20.

(d) Recommendation for further assistance payments.

With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection (a) of this section (or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District), the Commission shall present to the Joint Committee on Atomic Energy its recommendations as to the need for any further assistance payments to such entity.

(e) Reduction or termination of assistance payments; determination by Commission of financial self-sufficiency.

In exercising the authority of subsection (a) of this section the Commission shall assure itself that the governmental or other entities receiving assistance hereunder utilize all reasonable, available means to achieve financial self-sufficiency to the end that assistance payments by the Commission may be reduced or terminated at the earliest practical time. (Aug. 4, 1955, ch. 543, ch. 9, § 91, 69 Stat. 481; Dec. 14, 1967, Pub. L. 90-190, § 2, 81 Stat. 576.)

REFERENCES IN TEXT

Sections 241d and 245, included within the reference to section 236—245 of Title 20 in subsec. (c), were repealed.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-190, § 2(1), authorized the Commission, with respect to the cities of Oak Ridge, Tenn., and Richland, Wash., and the Richland School District, to continue to make assistance payments of just and reasonable sums after the expiration of the ten-year period following the date of transfer of any municipal installation, and added par. (5).

Subsec. (d). Pub. L. 90-190, § 2(2), added "(or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District)," following "subsection (a) of this section", substituted "assistance" for "contribution", and struck out the requirement that if the Commission proposes further contribution payments, it shall propose a definite schedule of such payments which will provide for an orderly and reasonably prompt withdrawal of the Commission from participation in and contribution toward local government.

Subsec. (e) Pub. L. 90-190, § 2(3), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2392, 2393, 2394 of this title.

§ 2392. Reduction of payments.

Any payment which becomes due under section 2391 of this title prior to the transfer of all municipal installations at the community may be reduced by such amount as the Commission determines to be equitable based on the municipal services then being performed by the Commission, and the municipal services then being performed by such governmental entity. (Aug. 4, 1955, ch. 543, ch. 9, § 92, 69 Stat. 482.)

§ 2393. Payments in anticipation of services; withholding of payments.

The payments made pursuant to section 2391 of this title to transferees of municipal installations are in anticipation that the respective recipients of those payments furnish, or have furnished, for the community, the school, hospital, or other municipal services in respect of which the payments are made. Any such payment may be withheld, in whole or in part, if the Commission finds that the recipient is not furnishing such services for any part of the area so designated. (Aug. 4, 1955, ch. 543, ch. 9, § 93, 69 Stat. 482.)

§ 2394. Contract to make payments.

The Commission is authorized, without regard to section 665 of Title 31, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 2391 of this title, obligating the Commission to make to such entity the payments directed or authorized to be made by section 2391 of this title: *Provided, however,* That the term of such contracts, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979. (Aug. 4, 1955, ch. 543, ch. 9, § 94, 69 Stat. 482; Dec. 14, 1967, Pub. L. 90–190, § 3, 81 Stat. 576.)

AMENDMENTS

1967—Pub. L. 90–190 added the proviso, and "or authorized" wherever appearing.

Chapter 25.—FEDERAL FLOOD INSURANCE

Sec.
2401 to 2413. Repealed.
2414. Issuance of note by Administrator; terms and conditions.
(a) to (d). Repealed.
(e) Issuance of notes by Administrator; form, terms and conditions; purchase and sale by Secretary of the Treasury; public debt transactions.
(f), (g). Repealed.
2415 to 2421. Repealed.

§§ 2401 to 2413. Repealed. Pub. L. 90–448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573.

Sections 2401—2413, act Aug. 7, 1956, ch. 1025, §§ 2–14, 80 Stat. 1078–1083, are now covered by chapter 50 of this title.

Section 2401 related to findings and declaration of purpose of this chapter.

Section 2402 provided for the administration of this chapter, appointment and compensation of a Commissioner, financial control, and accounting and audit.

Section 2403 authorized insurance and reinsurance.

Section 2404 authorized loans and prescribed their terms.

Section 2405 provided for a combination of insurance and loans.

Section 2406 required establishment of a schedule of estimated rates and fees.

Section 2407 related to property and loss limits.

Section 2408 related to classification, limitation or rejection of risks.

Section 2409 prescribed the policy and program limits.

Section 2410 authorized reinsurance.

Section 2411 related to availability of insurance from other sources, violations of flood zoning laws, and flood zoning restrictions to reduce damages from floods.

Section 2412 provided for use of other public and private facilities and services, information, coordination of programs, and consultations.

Section 2413 related to payment of claims and judicial review.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 90–448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

SEPARABILITY OF PROVISIONS

Section 23 of act Aug. 7, 1956, set out as a note under former section 2401 of this title, was repealed by Pub. L. 90–448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573.

§ 2414. Issuance of notes by Administrator; terms and conditions.

(a) to (d). Repealed. Pub. L. 90–448, title XIII, § 1303 (c), Aug. 1, 1968, 82 Stat. 573.

(e) Issuance of notes by Administrator; form, terms and conditions; purchase and sale by Secretary of the Treasury; public debt transactions.

The Administrator is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President) notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Administrator, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(f), (g). Repealed. Pub. L. 90–448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573.

(Aug. 7, 1956, ch. 1025, § 15, 70 Stat. 1083; Aug. 1, 1968, Pub. L. 90–448, title XIII, § 1303, 82 Stat. 573.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (e), is classified to sections 745, 752, 754b, 757, 757b–758, 760, 764–766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

Such Act, as amended, referred to in subsec. (e), is the Second Liberty Bond Act, as amended.

AMENDMENTS

1968—Subsecs. (a)–(d). Pub. L. 90–448, § 1303(c), repealed former subsecs. (a)–(d), which created three funds, provided for deposits therein, investment of moneys in the funds, and deposit of salvage proceeds.

Subsec. (e). Pub. L. 90–448, § 1303 (a), (b), substituted "current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month" for "current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month", and eliminated provisions which permitted the Secretary of the Treasury to purchase any notes and other obligations to be issued under this subsection.

Subsecs. (f), (g). Pub. L. 90–448, § 1303(c), repealed former subsecs. (f) and (g), which provided for use of moneys in the Funds and for payment of administrative expenses.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of section by Pub. L. 90–448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

All of the functions, powers, and duties of the Housing and Home Finance Agency, and its head and other officers and offices of said agency were transferred to and vested in the Secretary of Housing and Uran Development pursuant to Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of this title. Section 9(c) of Pub. L. 89–174, set out as a note under section 3531 of this title, provided in part that with respect to any function, power, or duty transferred by or under Pub. L. 89–174 and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or any other officer, office, or agency therein shall be deemed to mean the Secretary of Housing and Urban Development, and that the positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of Pub. L. 89–174 shall lapse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4016, 4017 of this title.

§§ 2415 to 2421. Repealed. Pub. L. 90–448, title XIII, § 1303(c), Aug. 1, 1968, 82 Stat. 573.

Sections 2415–2421, act Aug. 7, 1956, ch. 1025, §§ 16–22, 70 Stat. 1085, 1086, are now covered by chapter 50 of this title.

Section 2415 authorized appointment of an advisory committee.

Section 2416 provided for studies.

Section 2417 prescribed additional functions of the Administrator.

Section 2418 reserved rights in real estate acquired.

Section 2419 related to exemption of real estate from taxation.

Section 2420 provided for annual reports.

Section 2421 defined terms used in this chapter.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 90–448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as a note under section 4001 of this title.

Chapter 26.—NATIONAL SPACE PROGRAM

SUBCHAPTER I.—GENERAL PROVISIONS

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 2451. Congressional declaration of policy and purpose.

(a) The Congress declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

(b) The Congress declares that the general welfare and security of the United States require that adequate provision be made for aeronautical and space activities. The Congress further declares that such activities shall be the responsibility of, and shall be directed by, a civilian agency exercising control over aeronautical and space activities sponsored by the United States, except that activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense; and that determination as to which such agency has responsibility for and direction of any such activity shall be made by the President in conformity with section 2471 (e) of this title.

(c) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

(1) The expansion of human knowledge of phenomena in the atmosphere and space;

(2) The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;

(3) The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;

(4) The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;

(5) The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;

(6) The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries which have value or significance to that agency;

(7) Cooperation by the United States with other nations and groups of nations in work done pursuant to this chapter and in the peaceful application of the results thereof; and

(8) The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment.

(d) It is the purpose of this chapter to carry out and effectuate the policies declared in subsections (a), (b), and (c) of this section. (Pub. L. 85–568, title I, § 102, July 29, 1958, 72 Stat. 426.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85–568. For distribution in this Code, see Tables.

SHORT TITLE

Section 101 of Pub. L. 85–568 provided that Pub. L. 85–568, which is classified to this chapter, should be popularly known as the "National Aeronautics and Space Act of 1958". For distribution of this act to other titles, see Tables.

EX. ORD. NO. 11374. ABOLITION OF MISSILE SITES LABOR COMMISSION

Ex. Ord. No. 11374, Oct. 11, 1967, 32 F.R. 14199, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. The Missile Sites Labor Commission is hereby abolished, and its functions and responsibilities are transferred to the Federal Mediation and Conciliation Service.

SEC. 2. The Director of the Federal Mediation and Conciliation Service shall establish within the Federal Mediation and Conciliation Service such procedures as may be necessary to provide for continued priority for resolution of labor disputes or potential labor disputes at missile and space sites, and shall seek the continued cooperation of manufacturers, contractors, construction concerns, and labor unions in avoiding uneconomical operations and work stoppages at missile and space sites.

SEC. 3. The Department of Defense, the National Aeronautics and Space Administration, and other appropriate government departments and agencies shall continue to cooperate in the avoidance of uneconomical operations and work stoppages at missile and space sites. They shall also assist the Federal Mediation and Conciliation Service in the discharge of its responsibilities under this order.

SEC. 4. All records and property of the Missile Sites Labor Commission are hereby transferred to the Federal Mediation and Conciliation Service.

SEC. 5. Any disputes now before the Missile Sites Labor Commission shall be resolved by the personnel now serving as members of the Missile Sites Labor Commissions under special assignment for such purposes by the Director of the Federal Mediation and Conciliation Service.

SEC. 6. Executive Order No. 10946 of May 26, 1961, is hereby revoked.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 10946

Ex. Ord. No. 10946, May 26, 1961, 26 F.R. 4629, formerly set out as a note under this section, which related to labor disputes at missile and space sites, was revoked by Ex. Ord. No. 11374, Oct. 11, 1967, 32 F.R. 14199, set out as a note under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2476 of this title.

§ 2452. Definitions.

As used in this chapter—

(1) the term "aeronautical and space activities" means (A) research into, and the solution of, problems of flight within and outside the earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space; and

(2) the term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

(Pub. L. 85–568, title I, § 103, July 29, 1958, 72 Stat. 427.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85–568. For distribution in this Code, see Tables.

§ 2453. Transfer of related functions to Administration; reports to the Congress.

(a) Subject to the provisions of this section, the President, for a period of four years after July 29, 1958, may transfer to the Administration any functions (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by section 2473 of this title. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.

(b) Whenever any such transfer is made before January 1, 1959, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(c) After December 31, 1958, no transfer shall be made under this section until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer. (Pub. L. 85–568, title III, § 302, July 29, 1958, 72 Stat. 433.)

EX. ORD. NO. 10783. TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 10783, Oct. 1, 1958, 23 F. R. 7643, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Department of Defense, or of any officer or organizational entity of the Department of Defense, with respect to the following are hereby transferred to the National Aeronautics and Space Administration:

(a) The United States scientific satellite project (Project VANGUARD).

(b) Specific projects of the Advanced Research Projects Agency and of the Department of the Air Force which relate to space activities (including lunar probes, scientific satellites and superthrust boosters) within the scope of the functions devolving upon the National Aeronautics and Space Administration under the provisions of the National Aeronautics and Space Act of 1958 [this chapter], and which shall be more particularly described in one or more supplementary Executive orders hereafter issued.

SEC. 2. (a) The Secretary of the Treasury shall immediately transfer to the appropriation of the National Aeronautics and Space Administration for "Research and Development", from such appropriations of the Department of Defense as the Secretary of Defense shall designate, the following amounts:

(1) In connection with the transfer of functions provided for in section 1 (a) hereof, such amounts as shall be determined by the Director of the Bureau of the Budget [now Office of Management and Budget] pursuant to section 202 (b) of the Budget and Accounting Procedures Act of 1950 [section 581c (b) of Title 31] and section 1 (k) of Executive Order No. 10530 of May 1, 1954 [section 301 note of Title 3].

(2) In connection with the transfer of functions of the Advanced Research Projects Agency provided for in section 1 (b) hereof, $59,200,000.

(3) In connection with the transfer of functions of the Department of the Air Force provided for in section 1 (b) hereof, $57,800,000.

(b) In connection with the transfer of functions provided for in section 1, appropriate transfers of records, property, facilities, and civilian personnel shall be carried out as may be agreed upon from time to time by the National Aeronautics and Space Administration and the Department of Defense.

DWIGHT D. EISENHOWER

EX. ORD. NO. 10793. TRANSFER OF CERTAIN FUNCTIONS FROM DEPARTMENT OF DEFENSE TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 10793, Dec. 3, 1958, 23 F.R. 9405, provided:

By virtue of the authority vested in me by the National Aeronautics and Space Act of 1958 (Public Law 85–568; 72 Stat. 426) [this chapter] and section 202 (b) of the Budget and Accounting Procedures Act of 1950 (31 U. S. C. 581c (b)), and as President of the United States, it is ordered as follows:

SECTION 1. Those functions (including powers, duties, activities, and parts of functions) of the Department of the Army or of any officer or organizational entity thereof which are now being performed at the Jet Propulsion Laboratory of the California Institute of Technology, near Pasadena, California (hereinafter referred to as the Laboratory), except so much thereof as relates primarily to military operations and weapon system development programs, are hereby transferred to the National Aeronautics and Space Administration.

SEC. 2. In connection with the transfer of functions provided for in section 1 of this order, there is hereby transferred to the National Aeronautics and Space Administration custody, possession, and control of the Government-owned property occupied or utilized by the Laboratory except those items of equipment therein which relate primarily to military operations and weapon system development programs of the Department of the Army.

SEC. 3. The Department of Defense and the National Aeronautics and Space Administration shall effect necessary administrative arrangements, including appropriate transfer of records, in connection with the transfers of functions and property provided for in sections 1 and 2 hereof. In order to provide for the most effective utilization of scientific and engineering resources, the National Aeronautics and Space Administration shall to the extent permitted by its own programs and facilities provide research and development support at the Laboratory in respect of military matters to the Department of Defense.

SEC. 4. The Secretary of the Treasury shall immediately transfer from such appropriations of the Department of Defense pertinent to the functions transferred by section

1 of this order as the Secretary of Defense shall designate, to such appropriations of the National Aeronautics and Space Administration as the Administrator of the National Aeronautics and Space Administration shall specify, the amount of $4,078,250.

DWIGHT D. EISENHOWER

TRANSFER PLAN

Mar. 15, 1960, 25 F.R. 2151

Transmitted by the President and delivered to the Congress January 14, 1960, pursuant to the provisions of section 302 of the National Aeronautics and Space Act of 1958 (72 Stat. 433) [this section]

MAKING CERTAIN TRANSFERS FROM THE DEPARTMENT OF DEFENSE TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SECTION 1. Those functions (including powers, duties, activities, and parts of functions) of the Department of Defense, or of any officer or organizational entity thereof, relating to the development of space vehicle systems (excluding ballistic missiles) and research connected therewith, which are being performed by the Army Ballistic Missile Agency of the Department of the Army, or by any officer or organizational entity of the said Agency, are transferred to the National Aeronautics and Space Administration.

SEC. 2. (a) The following shall be transferred to the National Aeronautics and Space Administration, pursuant to authority conferred by the provisions of section 302(a) of the National Aeronautics and Space Act of 1958 [this section] and other applicable authority, at such time or times as may be appropriate:

(1) So much of the unexpended balances of appropriations, allocations, and other funds of the Department of Defense, available or to be made available, as the Director of the Bureau of the Budget [now Office of Management and Budget] shall determine to relate to the functions transferred by the provisions of section 1 of this transfer plan and to be needed by the National Aeronautics and Space Administration in connection with those functions.

(2) To the extent needed by the National Aeronautics and Space Administration in connection with the aforesaid transferred functions, (i) civilian personnel employed in the Development Operations Division of the Army Ballistic Missile Agency, and other civilian personnel employed in the Department of the Army for administrative and technical support of the Development Operations Division, together with their respective positions, and (ii) records and property of the Department of Defense (including those of any organizational entity of the Department of Defense) relating to the said transferred functions. The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, jointly, or, to any extent that they shall fail to agree, the Director of the Bureau of the Budget, shall (A) determine the number of employees to be so transferred and the identity of the particular employees who are to be transferred, (B) designate the specific records and property to be transferred, and (C) fix the date or dates of these transfers.

(b) Without limiting the foregoing provisions of this transfer plan, the functions transferred to the National Aeronautics and Space Administration by the provisions of section 1 of this transfer plan shall include so much of the functions of the Department of Defense, or of any officer or organizational entity thereof, as relate to the appointment and pay of civilian personnel employed in the Development Operations Division of the Army Ballistic Missile Agency, including authority to continue certain transferred positions in grades 16, 17, and 18 of the General Schedule of the Classification Act of 1949, as amended, pursuant to the provisions of section 1, of Public Law 86–377 [now covered by sections 3324 and 5708 of Title 5, Government Organization and Employees], and authority to continue certain transferred positions requiring the services of specially qualified scientists or professional personnel pursuant to the provisions of section 2 of Public Law 86–377 [section 1581 of Title 10, Armed Forces].

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate transfers under the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this transfer plan shall become effective upon the expiration of the first period of sixty calendar days of regular session of the Congress following the date stated in the heading hereof unless the Congress has during that period adopted a concurrent resolution stating that Congress does not favor this transfer plan. Thereafter, as promptly as may be, this transfer plan shall be published in the FEDERAL REGISTER.

§ 2454. Access to information.

Information obtained or developed by the Administrator in the performance of his functions under this chapter shall be made available for public inspection, except (A) information authorized or required by Federal statute to be withheld, and (B) information classified to protect the national security: *Provided,* That nothing in this chapter shall authorize the withholding of information by the Administrator from the duly authorized committees of the Congress. (Pub. L. 85–568, title III, § 303. July 29, 1958, 72 Stat. 433.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85–568. For distribution in this Code, see Tables.

§ 2455. Security requirements.

(a) Establishment; investigations; referral to Federal Bureau of Investigation.

The Administrator shall establish such security requirements, restrictions, and safeguards as he deems necessary in the interest of the national security. The Administrator may arrange with the Civil Service Commission for the conduct of such security or other personnel investigations of the Administration's officers, employees, and consultants, and its contractors and subcontractors and their officers and employees, actual or prospective, as he deems appropriate; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty the matter shall be referred to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Administrator.

(b) Access to Restricted Data of Atomic Energy Commission.

The Atomic Energy Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under 2165 (b) of this title, to permit any member, officer, or employee of the Council, or the Administrator, or any officer, employee, member of an advisory committee, contractor, subcontractor, or officer or employee of a contractor or subcontractor of the Administration, to have access to Restricted Data relating to aeronautical and space activities which is required in the performance of his duties and so certified by the Council or the Administrator, as the case may be, but only if (1) the Council or Administrator or designee thereof has determined,

in accordance with the established personnel security procedures and standards of the Council or Administration, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Council or Administrator or designee thereof finds that the established personnel and other security procedures and standards of the Council or Administration are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 2165 of this title. Any individual granted access to such Restricted Data pursuant to this subsection may exchange such Data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the armed forces, or a contractor or subcontractor of any such department, agency, or armed force, or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of section 2163 of this title. (Pub. L. 85–568, title III, § 304 (a), (b), July 29, 1958, 72 Stat. 433.)

CODIFICATION

Section is comprised of subsec. (a) and (b) of section 304 of Pub. L. 85–568. Subsecs. (c) and (d) of section 304 are classified to sections 799 and 1114, respectively, of Title 18, Crimes and Criminal Procedure. Subsec. (e) of section 304 is classified to section 2456 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2585.

§ 2456. Permission to use firearms.

The Administrator may direct such of the officers and employees of the Administration as he deems necessary in the public interest to carry firearms while in the conduct of their official duties. The Administrator may also authorize such of those employees of the contractors and subcontractors of the Administration engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as he deems necessary in the public interest, to carry firearms while in the conduct of their official duties. (Pub. L. 85–568, title III, § 304 (e), July 29, 1958, 72 Stat. 435.)

CODIFICATION

Section constitutes subsec. (e) of section 304 of Pub. L. 85–568. Subsecs. (a) and (b) of section 304 are classified to section 2455 of this title. Subsecs. (c) and (d) of section 304 are classified to sections 799 and 1114, respectively, of Title 18, Crimes and Criminal Procedure.

§ 2457. Property rights in inventions.

(a) Exclusive property of United States; issuance of patent.

Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administrator determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1),

such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section.

(b) Contract provisions for furnishing reports of inventions, discoveries, improvements, or innovations.

Each contract entered into by the Administrator with any party for the performance of any work shall contain effective provisions under which such party shall furnish promptly to the Administrator a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of any such work.

(c) Patent application.

No patent may be issued to any applicant other than the Administrator for any invention which appears to the Commissioner of Patents to have significant utility in the conduct of aeronautical and space activities unless the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any work under any contract of the Administration. Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the Administrator.

(d) Issuance of patent to applicant; request by Administrator; notice; hearing; determination; review.

Upon any application as to which any such statement has been transmitted to the Administrator, the Commissioner may, if the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days after receipt of such application and statement, requests that such patent be issued to him on behalf of the United States. If, within such time, the Administrator files such a request with the Commissioner, the Commissioner shall transmit notice thereof to the applicant, and shall issue such patent to the Administrator unless the applicant within thirty days after receipt of such notice requests a hearing before a Board of Patent Interferences on the question whether the Administrator is entitled under this section to receive such patent. The Board may hear and deter-

mine, in accordance with rules and procedures established for interference cases, the question so presented, and its determination shall be subject to appeal by the applicant or by the Administrator to the Court of Customs and Patent Appeals in accordance with procedures governing appeals from decisions of the Board of Patent Interferences in other proceedings.

(e) False representations; request for transfer of title to patent; notice; hearing; determination; review.

Whenever any patent has been issued to any applicant in conformity with subsection (d) of this section, and the Administrator thereafter has reason to believe that the statement filed by the applicant in connection therewith contained any false representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Commissioner a request for the transfer to the Administrator of title to such patent on the records of the Commissioner. Notice of any such request shall be transmitted by the Commissioner to the owner of record of such patent, and title to such patent shall be so transferred to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before a Board of Patent Interferences on the question whether any such false representation was contained in such statement. Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (d) of this section for questions arising thereunder. No request made by the Administrator under this subsection for the transfer of title to any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (d) of this section for the issuance of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

(f) Waiver of rights to inventions; Inventions and Contributions Board.

Under such regulations in conformity with this subsection as the Administrator shall prescribe, he may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby. Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States. Each such waiver made with respect to any invention shall be subject to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferrable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an Inventions and Contributions Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.

(g) License regulations.

The Administrator shall determine, and promulgate regulations specifying, the terms and conditions upon which licenses will be granted by the Administration for the practice by any person (other than an agency of the United States) of any invention for which the Administrator holds a patent on behalf of the United States.

(h) Protection of title.

The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which he has title, and to require that contractors or persons who retain title to inventions or discoveries under this section protect the inventions or discoveries to which the Administration has or may acquire a license of use.

(i) Administration as defense agency.

The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of Title 35.

(j) Definitions.

As used in this section—

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder; and

(3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(Pub. L. 85–568, title III, § 305, July 29, 1958, 72 Stat. 435.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2458 of this title.

§ 2458. Contributions awards.

(a) Applications; referral to Board; hearing; recommendations; determination by Administrator.

Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon application of any person, to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any person (as defined by section 2457 of this title) for any scientific or technical contribution to the Administration which is determined by the Administrator to have significant value in the conduct of aeronautical and space activities. Each application made for any such award shall be referred to the Inventions and Contributions Board established under section 2457 of this title. Such Board shall accord to each such applicant an opportunity for hearing upon such application, and shall transmit to the Administrator its recommendation as to the terms of the award, if

any, to be made to such applicant for such contribution. In determining the terms and conditions of any award the Administrator shall take into account—

(1) the value of the contribution to the United States;

(2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;

(3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and

(4) such other factors as the Administrator shall determine to be material.

(b) Apportionment of awards; surrender of claims to compensation; limitation on amount; reports to Congressional Committees.

If more than one applicant under subsection (a) of this section claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable. No award may be made under subsection (a) of this section with respect to any contribution—

(1) unless the applicant surrenders, by such means as the Administrator shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place;

(2) in any amount exceeding $100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

(Pub. L. 85–568, title III, § 306, July 29, 1958, 72 Stat. 437.)

§ 2459. Appropriations; authorizations; availability and use; termination.

(a) There are authorized to be appropriated such sums as may be necessary to carry out this chapter, except that nothing in this chapter shall authorize the appropriation of any amount for (1) the acquisition or condemnation of any real property, or (2) any other item of a capital nature (such as plant or facility acquisition, construction, or expansion) which exceeds $250,000. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperative by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.

(c) Notwithstanding any other provision of law, the authorization of any appropriation to the Administration shall expire (unless an earlier expiration is specifically provided) at the close of the third fiscal year following the fiscal year in which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made. (Pub. L. 85–568, title III, § 307, July 29, 1958, 72 Stat. 438; Pub. L. 88–113, § 6, Sept. 6, 1963, 77 Stat. 144.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85–568. For distribution in this Code, see Tables.

AMENDMENTS

1963—Subsec. (c). Pub. L. 88–113 added subsec. (c).

GEOGRAPHICAL DISTRIBUTION OF FUNDS

Pub. L. 91–303, § 5, July 2, 1970, 84 Stat. 371, provided that: "It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible."

Similar provisions were contained in the following prior Appropriation Acts:

1969—Pub. L. 91–119, § 5, Nov. 18, 1969, 83 Stat. 198.
1968—Pub. L. 90–373, § 6, July 3, 1968, 82 Stat. 283.
1967—Pub. L. 90–67, § 5, Aug. 21, 1967, 81 Stat. 170.
1966—Pub. L. 89–528, § 5, Aug. 5, 1966, 80 Stat. 339.
1965—Pub. L. 89–53, § 5, June 28, 1965, 79 Stat. 194.

DENIAL OF FINANCIAL ASSISTANCE TO CAMPUS DISRUPTERS

Pub. L. 91–303, § 6, July 2, 1970, 84 Stat. 372, provided that:

"(a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act [July 2, 1970] and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958 [this chapter], the funds for which are authorized pursuant to this Act [National Aeronautics and Space Administration Authorization Act, 1971]. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act [July 2, 1970], and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of,

such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

"(c)(1) Nothing in this Act shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions."

APPROPRIATIONS FOR ANY PERIOD PRIOR TO JUNE 30, 1960

Sections 701 of Pub. L. 85-766, title VII, Aug. 27, 1958, 72 Stat. 873, prohibited appropriations to the National Aeronautics and Space Administration for any period prior to June 30, 1960, unless previously authorized.

§ 2460. Appropriations; prior authorization by Congress.

Notwithstanding the provisions of any other law, no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation hereafter enacted by the Congress. (Pub. L. 86-45, § 4, June 15, 1959, 73 Stat. 75.)

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, which is classified principally to this chapter.

§ 2461. Congressional Space Medal of Honor; appropriations.

The President may award, and present in the name of Congress, a medal of appropriate design, which shall be known as the Congressional Space Medal of Honor, to any astronaut who in the performance of his duties has distinguished himself by exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind.

There is authorized to be appropriated from time to time such sums of money as may be necessary to carry out the purposes of this section. (Pub. L. 91-76, §§ 1, 2, Sept. 29, 1969, 83 Stat. 124.)

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, which is classified principally to this chapter.

The first and second pars. of this section are comprised of section 1 and 2 of Pub. L. 91-76, respectively.

§ 2462. Reporting requirements.

(a) Definitions.

As used in this section—

(1) The term "former employee" means any former officer or employee of the National Aeronautics and Space Administration, including consultants or part-time employees, whose salary rate at any time during the three-year period immediately preceding the termination of his last employment with the National Aeronautics and Space Administration was equal to or greater than the minimum salary rate at such time for positions in grade GS-13.

(2) The term "aerospace contractor" means any individual, firm, corporation, partnership, association, or other legal entity, which provides services and materials to or for the National Aeronautics and Space Administration in connection with any aerospace system under a contract directly with the National Aeronautics and Space Administration.

(3) The term "services and materials" means either services or materials or services and materials which are provided as a part of or in connection with any aerospace system.

(4) The term "aerospace system" includes, but is not limited to, any rocket, launch vehicle, rocket engine, propellant, spacecraft, command module, service module, landing module, tracking device, communications device, or any part or component thereof, which is used in either manned or unmanned spaceflight operations.

(5) The term "contracts awarded" means contracts awarded by negotiation and includes the net amount of modifications to, and the exercise of options under, such contracts. It excludes all transactions amounting to less than $10,000 each.

(6) The term "fiscal year" means a year beginning on 1 July and ending on 30 June of the next succeeding year.

(b) Former Administration employees employed by aerospace contractors; Administration employees previously employed by aerospace contractors.

Under regulations to be prescribed by the Administrator: (1) Any former employee who during any fiscal year,

(A) was employed by or served as a consultant or otherwise to an aerospace contractor for any period of time,

(B) represented any aerospace contractor at any hearing, trial, appeal, or other action in which the United States was a party and which involved services and materials provided or to be provided to the National Aeronautics and Space Administration by such contractor, or

(C) represented any such contractor in any transaction with the National Aeronautics and Space Administration involving services or materials provided or to be provided by such contractor to the National Aeronautics and Space Administration, shall file with the Administrator, in such form and manner as the Administrator may prescribe, not later than November 15 of the next succeeding fiscal year, a report containing the following information:

(1) His name and address.

(2) The name and address of the aerospace contractor by whom he was employed or whom he served as a consultant or otherwise.

(3) The title of the position held by him with the aerospace contractor.

(4) A brief description of his duties and the work performed by him for the aerospace contractor.

(5) His gross salary rate while employed by the National Aeronautics and Space Administration.

(6) A brief description of his duties and the work performed by him while employed by the National Aeronautics and Space Administration during the three-year period immediately preceding his termination of employment.

(7) The date of the termination of his employment with the National Aeronautics and Space Administration, and the date on which his employment, as an employee, consultant or otherwise, with the aerospace contractor began, and if

no longer employed by such aerospace contractor, the date on which his employment with such aerospace contractor terminated.

(8) Such other pertinent information as the Administrator may require.

(2) Any employee of the National Aeronautics and Space Administration, including consultants or part-time employees, who was previously employed by or served as a consultant or otherwise to an aerospace contractor in any fiscal year, and whose salary rate in the National Aeronautics and Space Administration is equal to or greater than the minimum salary rate for positions in grade GS–13 shall file with the Administrator, in such form and manner and at such times as the Administrator may prescribe, a report containing the following information:

(A) His name and address.

(B) The title of his position with the National Aeronautics and Space Administration.

(C) A brief description of his duties with the National Aeronautics and Space Administration.

(D) The name and address of the aerospace contractor by whom he was employed or whom he served as a consultant or otherwise.

(E) The title of his position with such aerospace contractor.

(F) A brief description of his duties and the work performed by him for the aerospace contractor.

(G) The date on which his employment as a consultant or otherwise with such contractor terminated and the date on which his employment as a consultant or otherwise with the National Aeronautics and Space Administration began thereafter.

(H) Such other pertinent information as the Administrator may require.

(c) Exceptions.

(1) No former employee of the National Aeronautics and Space Administration shall be required to file a report under this section for any fiscal year in which he was employed by or served as a consultant or otherwise to an aerospace contractor if the total amount of contracts awarded by the National Aeronautics and Space Administration to such contractor during such year was less than $10,000,000; and no employee of the National Aeronautics and Space Administration shall be required to file a report under this section for any fiscal year in which he was employed by or served as a consultant or otherwise to an aerospace contractor if the total amount of contracts awarded to such contractor by the National Aeronautics and Space Administration during such year was less than $10,000,000.

(2) No former National Aeronautics and Space Administration employee shall be required to file a report under this section for any fiscal year on account of employment with the National Aeronautics and Space Administration if such employment was terminated three years or more prior to the beginning of such fiscal year; and no employee of the National Aeronautics and Space Administration shall be required to file a report under this section for any fiscal year on account of employment with or services performed for an aerospace contractor if such employment was terminated or such services were performed three years or more prior to the beginning of such fiscal year.

(3) No former employee shall be required to file a report under this section for any fiscal year during which he was employed by or served as a consultant or otherwise to an aerospace contractor at a salary rate of less than $15,000 per year; and no employee of the National Aeronautics and Space Administration, including consultants or part-time employees, shall be required to file a report under this section for any fiscal year during which he was employed by or served as a consultant or otherwise to an aerospace contractor at a salary rate of less than $15,000 per year.

(d) Reports to Congress.

The Administrator shall, not later than December 31 of each year, file with the President of the Senate and the Speaker of the House of Representatives a report containing a list of the names of persons who have filed reports with him for the preceding fiscal year pursuant to subsections (b)(1) and (b)(2) of this section. The Administrator shall include after each name so much information as he deems appropriate, and shall list the names of such persons under the aerospace contractor for whom they worked or for whom they performed services.

(e) Termination of employment; filing reports under subsection (b) (1) or (2).

Any former employee of the National Aeronautics and Space Administration whose employment with or services for an aerospace contractor terminated during any fiscal year shall be required to file a report pursuant to subsection (b)(1) of this section for such year if he would otherwise be required to file under such subsection; and any person whose employment with or services for the National Aeronautics and Space Administration terminated during any fiscal year shall be required to file a report pursuant to subsection (b)(2) of this section for such year if he would otherwise be required to file under such subsection.

(f) Recordkeeping; availability of information.

The Administrator shall maintain a file containing the information filed with him pursuant to subsections (b)(1) and (b)(2) of this section and such file shall be open for public inspection at all times during the regular workday.

(g) Penalties.

Any person who fails to comply with the filing requirements of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by not more than six months in prison or a fine of not more than $1,000, or both.

(h) Commencement date.

No person shall be required to file a report pursuant to this section for any year prior to the fiscal year 1971. (Pub. L. 91–19, § 6, Nov. 18, 1969, 83 Stat. 199; Pub. L. 91–303, § 7, July 2, 1970, 84 Stat. 372.)

CODIFICATION

Section was not enacted as part of the National Aeronautics and Space Act of 1958, which is classified principally to this chapter.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-303 added pars. (1), (5), and (6), redesignated former par. (1) as (2) and provided therein for services and materials "under a contract directly with the National Aeronautics and Space Administration", and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b). Pub. L. 91-303 provided for prescription of regulations by the Administrator.

Subsec. (b)(1). Pub. L. 91-303 redesignated provisions of former subsec. (b) as par. (1); deleted introductory provisions respecting former employee who during five year period preceding termination of employment was directly engaged in procurement of an aerospace system or in negotiation, renegotiation, approval, or disapproval of any procurement contract for services or materials for such system, or served with the Administration at factory or plant of an aerospace contractor, or was employed by the Administration at annual salary rate of GS-15 or higher; prescribed fiscal year rather than calendar year period; redesignated former cls. (1) to (3) as (A) to (C), substituting as cl. (A) "was employed by or served as a consultant or otherwise to an aerospace contractor for any period of time" for "was employed for any period of time during any calendar year by an aerospace contractor" and in cl. (B) "National Aeronautics and Space Administration" for "United States"; substituted filing date for the report a date not later than November 15 of the next succeeding fiscal year for filing date not later than March 1 of the next suceeding calendar year; reenacted items of information (1), (3), and (8), substituted in item (2) "whom he served as a consultant or otherwise" for "whom he represented" and in item (4) "and the work performed by him for the aerospace contractor" for "with the aerospace contractor", added item (5), redesignated former item (5) as (6), inserting therein "and the work performed by him" following "duties deleted former item (6) respecting description of work performed in connection with any aerospace system while employed by the Administration, if the employing aerospace contractor is providing or is negotiating or bidding to provide services or materials for such system, and inserted in item (7) ", as an employee, consultant, or otherwise," following "date on which his employment".

Subsec. (b)(2). Pub. L. 91-303 redesignated provisions of former subsec. (c) as par. (2); deleted introductory clauses respecting reporting requirement of Administration employee formerly employed by aerospace contractor (1) who was directly engaged in procurement of an aerospace system or in negotiation, renegotiation, approval, or disapproval of any procurement contract for services or materials for such system or (2) who served as representative of the Administration at factory or plant of an aerospace contractor; deemed consultants or part-time employees to be employees and included service as a consultant or otherwise to an aerospace contractor; provided for fiscal year in place of calendar year basis; inserted provision respecting salary rate when in the Administration equal to or greater than minimum salary rate for positions in GS-13; substituted as a filing date for the report such times as the Administrator may prescribe for a required filing date not later than March 1 of the next succeeding calendar year; redesignated items of information (1) to (3), (5), and (9) as (A) to (C), (E), and (H); redesignated item (4) as (D), inserting therein "or whom he served as a consultant or otherwise"; redesignated item (6) as (F), substituting "and the work performed by him for the aerospace contractor" for "at the time he was employed by such aerospace contractor"; deleted former item (7) respecting description of work performed in connection with any aerospace system while employed by the aerospace contractor or while performing legal services for such contractor, if such contractor is providing or is negotiating or bidding to provide services or materials for such system; and redesignated item (8) as (G), inserting employment "as a consultant or otherwise" with such contractor.

Subsec. (c). Pub. L. 91-303 redesignated former subsec. (d)(1) and (2) as (c)(1) and (2); in rewriting par. (1), included service as a consultant or otherwise to an aerospace contractor, substituted "total amount of contracts awarded by the National Aeronautics and Space Administration to such contractor" for "total cost to the United States of services and materials provided the United States by such contractor" and "total amounts of contracts awarded to such contractor" for "total cost to the United States of services and materials provided the United States by the aerospace contractor" in provisions as to former and present employees, respectively, and substituted in such provisions "for any fiscal year" for "for any year" and fiscal year requirement for reports for prior requirement for reports in each of the applicable calendar years of employment; substituted in par. (2) "fiscal year" for "calendar year" in four instances and deleted term "active duty or" preceding "employment was terminated three years"; and added par. (3). Former subsec. (c) redesignated (b)(2).

Subsec. (d). Pub. L. 91-303 redesignated former subsec. (e) as (d) and substituted "December 31" for "May 1" as date for filing reports, "fiscal year" for "calendar year", and reference to subsecs. (b)(1) and (2) for subsecs. (b) and (c) of this section. Former subsec. (d), pars. (1) and (2) redesignated subsec. (c), pars. (1) and (2).

Subsec. (e). Pub. L. 91-303 redesignated former subsec. (f) as (e), included services for an aerospace contractor or the National Aeronautics and Space Administration, and substituted "fiscal year" for "calendar year" in two instances and reference to subsec. (b)(1) and (2) for subsecs. (b) and (c) of this section. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 91-303 redesignated former subsec. (g) as (f) and substituted therein reference to subsections (b)(1) and (2) for subsections (b) and (c) of this section. Former subsec. (f) redesignated (e).

Subsec. (g). Pub L. 91-303 redesignated former subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 91-303 redesignated former subsec. (i) as (h) and substituted therein "fiscal year 1971" for "calendar year 1970". Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L 91-303 redesignated former subsec. (i) as (h).

CROSS REFERENCES

National defense contracts, reporting requirements, see section 1436 of Title 50, War and National Defense.

SUBCHAPTER II.—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

§ 2471. National Aeronautics and Space Council.

(a) Establishment; membership.

There is established, in the Executive Office of the President, the National Aeronautics and Space Council (hereinafter called the "Council") which shall be composed of—

(1) the Vice President, who shall be Chairman of the Council;

(2) the Secretary of State;

(3) the Secretary of Defense;

(4) the Secretary of Transportation;

(5) the Administrator of the National Aeronautics and Space Administration; and

(6) the Chairman of the Atomic Energy Commission.

(b) Alternate presiding officer.

The President shall from time to time designate one of the members of the Council to preside over meetings of the Council during the absence, disability, or unavailability of the Chairman.

(c) Alternate members.

Each member of the Council may designate another officer of his department or agency to serve on the Council as his alternate in his unavoidable absence.

(d) Designations by and with advice and consent of Senate.

Each alternate member designated under subsection (c) of this section shall be designated to serve as such by and with the advice and consent of the Senate unless at the time of his designation he holds an office in the Federal Government to which he was appointed by and with the advice and consent of the Senate.

(e) Functions.

It shall be the function of the Council to advise and assist the President, as he may request, with respect to the performance of functions in the aeronautics and space field, including the following functions:

(1) survey all significant aeronautical and space activities, including the policies, plans, programs, and accomplishments of all departments and agencies of the United States engaged in such activities;

(2) develop a comprehensive program of aeronautical and space activities to be conducted by departments and agencies of the United States;

(3) designate and fix responsibility for the direction of major aeronautical and space activities;

(4) provide for effective cooperation among all departments and agencies of the United States engaged in aeronautical and space activities, and specify, in any case in which primary responsibility for any category of aeronautical and space activities has been assigned to any department or agency, which of those activities may be carried on concurrently by other departments or agencies; and

(5) resolve differences arising among departments and agencies of the United States with respect to aeronautical and space activities under this chapter, including differences as to whether a particular project is an aeronautical and space activity.

(f) Employment of personnel; executive secretary; security check; other applicable employment provisions.

The Council may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President by and with the advice and consent of the Senate. The executive secretary, subject to the direction of the Council, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons who may be appointed without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of Title 5 and compensated at not to exceed the highest rate of grade 18 of the General Schedule, as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions. Each appointment under this subsection shall be subject to the same security requirements as those established for personnel of the National Aeronautics and Space Administration appointed under section 2473(b)(2) of this title. Other provisions of law or regulations relating to Government employment (except those relating to pay and retirement) shall apply to council employees reporting directly to the chairman to the extent that such provisions are applicable to employees in the office of the Vice President.

(Pub. L. 85–568, title I, § 201, July 29, 1958, 72 Stat. 427; Pub. L. 87–26, § 1, Apr. 25, 1961, 75 Stat. 46; Pub. L. 87–367, title II, § 207, Oct. 4, 1961, 75 Stat. 792; Pub. L. 87–584, § 7, Aug. 14, 1962, 76 Stat. 385; Pub. L. 88–426, title III, §§ 305(13)(A), 306(c), Aug. 14, 1964, 78 Stat. 423, 428; Pub. L. 91–406, Sept. 23, 1970, 84 Stat. 855.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85–568. For distribution in this Code, see Tables.

The civil service laws, referred to in subsec. (f), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a)(4)–(6). Pub. L. 91–406 added par. (4) and redesignated former pars. (4) and (5) as 5 and (6), respectively.

1964—Subsec. (f). Pub. L. 88–426 repealed provisions which prescribed the compensation of the executive secretary, and substituted "compensated at not to exceed the highest rate of grade 18 of the General Schedule" for "compensated at the rate of not more than $19,000 a year."

1962—Subsec. (f). Pub. L. 87–584 provided for the application of other provisions of law or regulations relating to Government employment to council employees reporting directly to the chairman.

1961—Subsec. (a). Pub. L. 87–26, § 1(a), placed the Council in the Executive Office of the President, replaced the President as the presiding officer of Council meetings with the Vice President as Chairman of the Council, and eliminated from membership one additional Government member and three distinguished civilians, appointed by the President.

Subsec. (b). Pub. L. 87–26, § 1(a), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87–26, § 1(a), redesignated former subsec. (b) as (c) and eliminated therefrom "from a department or agency of the Federal Government" following "of the Council." Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 87–26, § 1(a), redesignated former subsec. (c) as (d), eliminated therefrom introductory words "Each member of the Council appointed or designated under paragraphs (6) and (7) of subsection (a) of this section, and" and references to appointment, and substituted "subsection (c)" for "subsection (b)". Former subsec. (d) incorporated in subsec. (e).

Subsec. (e). Pub. L. 87–26 § 1(a), consolidated the provisions of former subsecs. (d) and (e) requiring the Council to advise the President with respect to performance of prescribed duties of the Executive and enumeration of such duties, modified such former provisions by requiring the Council to advise and assist the President, as he may request, with respect to performance of functions in the aeronautics and space field, by making the prescribed duties of the President the functions of the Council and amending the same to include references to departments in pars. (1) and (2) and to provide for cooperation among all departments and agencies of the United States engaged in aeronautical and space activities and for concurrent effort instead of only between the Administration and the Department of Defense and the concurrent effort of such agencies in par. (4).

Subsec. (f). Pub. L. 87–367 authorized the executive secretary of the National Aeronautics and Space Council to increase the number of employees employed at $19,000 per annum from three to seven.

Subsec. (g). Pub. L. 87–26, § 1(b), repealed subsec. (g) provisions relating to compensation of members.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2451 of this title.

§ 2472. National Aeronautics and Space Administration.

(a) Establishment; appointment and duties of Administrator.

There is established the National Aeronautics and Space Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) Deputy Administrator; appointment and duties.

There shall be in the Administration a Deputy Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate and shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) Restriction on engaging in any other business, vocation, or employment.

The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such. (Pub. L. 85-568, title II, § 202, July 29, 1958, 72 Stat. 429; Pub. L. 88-426, title III, § 305(12), Aug. 14, 1964, 78 Stat. 423.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-426, § 305(12)(A), repealed provisions which prescribed the compensation of the Administrator.

Subsec. (b). Pub. L. 88-426, § 305(12)(B), repealed provisions which prescribed the compensation of the Deputy Administrator.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Administrator of the National Aeronautics and Space Administration, see Parts 1, 22, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

TERMINATION OF NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS; TRANSFER OF FUNCTIONS

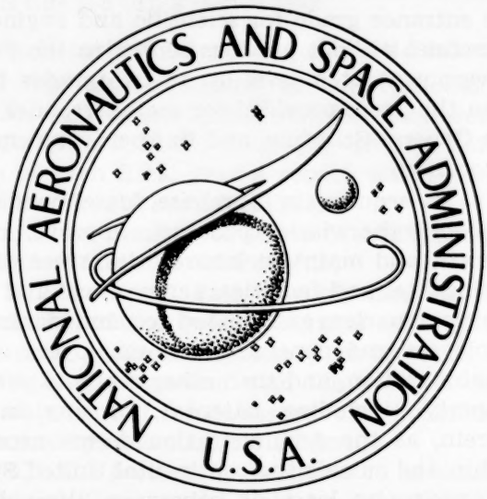
Section 301 (a) of Pub. L. 85-568 provided that: "The National Advisory Committee for Aeronautics, on the effective date of this section [see note under section 2302 of Title 10, Armed Forces], shall cease to exist. On such date all functions, powers, duties, and obligations, and all real and personal property, personnel (other than members of the Committee), funds, and records of that organization, shall be transferred to the Administration."

EX. ORD. NO. 10849. ESTABLISHMENT OF SEAL FOR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Ex. Ord. No. 10849, Nov. 27, 1959, 24 F.R. 9559, as amended by Ex. Ord. No. 10942, May 19, 1961, 26 F.R. 4419, provided:

WHEREAS the Administrator of the National Aeronautics and Space Administration has caused to be made, and has recommended that I approve, a seal for the National Aeronautics and Space Administration, the design of which accompanies and is hereby made a part of this order, and which is described as follows:

On a disc of the blue sky strewn with white stars, to dexter a larger yellow sphere bearing a red flight symbol apex in upper sinister and wings enveloping and casting a brown shadow upon the sphere, all partially encircled with a horizontal white orbit, in sinister a small light-blue sphere; circumscribing the disc a white band edged gold inscribed "National Aeronautics and Space Administration U.S.A." in red letters.



AND WHEREAS it appears that such seal is of suitable design and appropriate for establishment as the official seal of the National Aeronautics and Space Administration:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, I hereby approve such seal as the official seal of the National Aeronautics and Space Administration.

DWIGHT D. EISENHOWER

CROSS REFERENCES

Compensation of Administrator and Deputy Administrator, see sections 5313 and 5314, respectively, of Title 5, Government Organization and Employees.

§ 2473. Functions of the Administration.

(a) The Administration, in order to carry out the purpose of this chapter, shall—

(1) plan, direct, and conduct aeronautical and space activities;

(2) arrange for participation by the scientific community in planning scientific measurements and observations to be made through use of aeronautical and space vehicles, and conduct or arrange for the conduct of such measurements and observations; and

(3) provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

(b) In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, except that (A) to the

extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the highest rate of grade 18 of the General Schedule, and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule, and fix their compensation accordingly;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, aeronautical and space vehicles, quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to section 34 of Title 40; to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 529 of Title 31, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purpose of this chapter, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;

(6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;

(7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this chapter with related scientific and other activities being carried on by other public and private agencies and organizations;

(9) to obtain services as authorized by section 15 of the Act of August 2, 1946, at rates not to exceed $100 per diem for individuals;

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

(11) Repealed. Pub. L. 88–448, title IV, § 402 (a)(34), Aug. 19, 1964, 78 Stat. 495.

(12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the appropriate Secretary for services in the performance of functions under this chapter to the same extent as that to which they might be lawfully assigned in the Department of Defense;

(13) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration.

(Pub. L. 85–568, title II, § 203, July 29, 1958, 72 Stat. 429; Pub. L. 86–20, May 13, 1959, 73 Stat. 21; Pub. L. 86–481, § 5, June 1, 1960, 74 Stat. 153; Pub. L. 87–367, title II, § 206(a), Oct. 4, 1961, 75 Stat. 791; Pub. L. 87–584, § 6, Aug. 14, 1962, 76 Stat. 384; Pub. L. 87–793, § 1001(f), Oct. 11, 1962, 76 Stat. 864; Pub. L. 88–426, title III, § 306(d), Aug. 14, 1964, 78 Stat. 429; Pub. L.

88-448, title IV, § 402(a)(34), Aug. 19, 1964, 78 Stat. 495; Pub. L. 91-646, title II, § 220(a)(2), Jan. 2, 1971, 84 Stat. 1903.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85-568. For distribution in this Code, see Tables.

The civil service laws, referred to in subsec. (b)(2), are classified generally to Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (b)(2), is set out as section 5332 of Title 5.

The Federal Property and Administrative Services Act, referred to in subsec. (b)(3), is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I-IV and VI-VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90-620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

Section 15 of the Act of August 2, 1946, referred to in subsec. (b)(9), is now covered by section 3109 of Title 5.

AMENDMENTS

1971—Subsec. (b)(14). Pub. L. 91-646 repealed provisions of paragraph for Administration authorization for reimbursement of owners and tenants of land and interests in land acquired on or after Nov. 1, 1961, by the United States for Administration use for expenses and damages incurred by such owners and tenants as result of moving themselves, their families, and their possessions because of said acquisition, limitation on amount, and time for submission of applications. Subject matter is now covered by chapter 61 (section 4601 et seq.) of this title.

1964—Subsec. (b)(2). Pub. L. 88-426 eliminated provisions from cl. (A) which permitted the Administrator to fix compensation at not more than $21,000 for a maximum of thirty positions and provisions which related to the filling of positions prior to Mar. 1, 1962, and July 1, 1962.

Subsec. (b)(11). Pub. L. 88-448 repealed former subsec. (b)(11) which authorized the employment of retired commissioned officers.

1962—Subsec. (b). Pub. L. 87-793 substituted "(at not to exceed the highest rate of grade 18 of the General Schedule, or for a maximum of thirty positions, not to exceed $21,000 a year) of" for "(up to a limit of $19,000 a year, or up to a limit of $21,000 a year for a maximum of thirty positions) of ", in par (2).

Pub. L. 87-584 added par (14).

1961—Subsec. (b)(2). Pub. L. 87-367 substituted "thirty" for "thirteen" and "four hundred and twenty-five (of which not to exceed three hundred and fifty-five may be filled prior to March 1, 1962 and not to exceed three hundred and ninety may be filed prior to July 1, 1962)" for "two hundred and ninety."

1960—Subsec. (b)(2). Pub. L. 86-481 substituted "thirteen" for "ten" and "two hundred and ninety" for "two hundred and sixty."

1959—Subsec. (b)(3). Pub. L. 86-20 authorized the Administration to acquire, by lease or otherwise, buildings or parts of buildings in the District of Columbia for a period of not more than 10 years.

EFFECTIVE DATE OF 1971 AMENDMENT

Repeal of subsec. (b)(14) of this section by Pub. L. 91-646 effective Jan. 2, 1971, see section 221 of Pub. L. 91-646, set out as a note under section 4601 of this title.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment of section by Pub. L. 88-448 effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

Amendment of section by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87-793.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as a note under section 4621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2453, 2471, 2473a of this title and title 5 section 5532.

§ 2473a. Reports to Congress; confidential information.

(1) The Administrator of the National Aeronautics and Space Administration shall submit to the Congress not later than forty-five days after the close of each fiscal year a report which sets forth, as of the close of such fiscal year—

(A) the number of positions established under section 2473(b)(2) of this title;

(B) the name, rate of compensation, and description of the qualifications of each incumbent of each position established under such section 2473(b)(2), together with the position title and a statement of the duties and responsibilities performed by each such incumbent;

(C) the position or positions in or outside the Federal Government held by each such incumbent, and his rate or rates of compensation, during the five-year period immediately preceding the date of appointment of such incumbent to such position; and

(D) such other information as the Administrator may deem appropriate or which may be required by the Congress or a committee thereof.

Nothing contained in this section shall require the resubmission of any information required under subparagraphs (B) and (C) of this paragraph which has been reported pursuant to this section and remains unchanged.

(2) In any instance in which the Administrator may find full public disclosure of any or all of the matter covered by paragraph (1) of this section to be detrimental to the national security, the Administrator is authorized—

(A) to omit in such report those matters with respect to which full public disclosure is found to be detrimental to the national security;

(B) to inform the Congress of such omission; and

(C) at the request of any congressional committee to which such report is referred, to present all information concerning such matters.

(Pub. L. 87-367, title II, § 206(b), Oct. 4, 1961, 75 Stat. 791.)

CODIFICATION

Section was not enacted as a part of the Federal National Aeronautics and Space Act of 1958, which comprises this chapter.

Section consists of subsec. (b) of section 206 of Pub. L. 87-367. Subsec. (a) thereof amended section 2473 of this title. Pursuant to this codification, references in the original to "this subsection" have been changed to "this paragraph" and "this section", respectively, where appropriate.

§ 2474. Civilian-Military Liaison Committee.

CODIFICATION

Section, Pub. L. 85-568, title II, § 204, July 29, 1958, 72 Stat. 431; Pub. L. 88-426, title III, § 305(13)(B), Aug. 14,

1964, 78 Stat. 423; Pub. L. 88–448, title IV, § 401(g), Aug. 19, 1964, 78 Stat. 400, established the Civilian-Military Liaison Committee, which was abolished and its functions, together with the function of its chairman and other officers, transferred to the President of the United States by sections 1(e) and 3(a) of Reorg. Plan No. 4 of 1965, eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2475. International cooperation.

The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this chapter, and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate. (Pub. L. 85–568, title II, § 205, July 29, 1958, 72 Stat. 432.)

REFERENCES IN TEXT

"This chapter", referred to in the text, was in the original "this Act", meaning Pub. L. 85–568. For distribution in this Code, see Tables.

§ 2476. Reports to the Congress.

(a) Submission to the President.

The Administration shall submit to the President for transmittal to the Congress, semiannually and at such other times as it deems desirable, a report of its activities and accomplishments.

(b) Presidential report; transmittal.

The President shall transmit to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 2451 (c) of this title.

(c) Recommendations for additional legislation.

Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives described in section 2451 (c) of this title.

(d) Classified information.

No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by, or pursuant to authorization given by, the President. (Pub. L. 85–568, title II, § 206, July 29, 1958, 72 Stat. 432.)

§ 2477. Aerospace Safety Advisory Panel; membership; appointment; term; powers and duties of Panel; Chairman; compensation, travel and other necessary expenses; NASA membership restriction.

There is hereby established an Aerospace Safety Advisory Panel consisting of a maximum of nine members who shall be appointed by the Administrator for terms of six years each. The Panel shall review safety studies and operations plans referred to it and shall make reports thereon, shall advice the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards and shall perform such other duties as the Administrator may request. One member shall be designated by the Panel as its Chairman. Members of the Panel who are officers or employees of the Federal Government shall receive no compensation for their services as such, but shall be allowed necessary travel expenses (or in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in sections 5702, 5704 of Title 5), and other necessary expenses incurred by them in the performance of duties vested in the Panel, without regard to the provisions of subchapter I, chapter 57 of Title 5, the Standardized Government Travel Regulations, or section 5731 of Title 5. Members of the Panel appointed from outside the Federal Government shall each receive compensation at the rate of $100 for each day such member is engaged in the actual performance of duties vested in the Panel in addition to reimbursement for travel, subsistence, and other necessary expenses in accordance with the provisions of the foregoing sentence. Not more than four such members shall be chosen from among the officers and employees of the National Aeronautics and Space Administration. (Pub. L. 90–67, § 6, Aug. 21, 1967, 81 Stat. 170.)

Chapter 27.—LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED

Sec.
2491 to 2494. Repealed.
2495. National Advisory Committee on Education of the Deaf.
(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term.
(b) Functions of Advisory Committee.
(c) Advisory professional or technical personnel.
(d) Compensation and travel expenses.
(e) Meetings.

§§ 2491 to 2494. Repealed. Pub. L. 91–230, title VI, § 662(1), Apr. 13, 1970, 84 Stat. 188.

Section 2491, Pub. L. 85–905, § 1, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87–715, § 1(a), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90–247, title I, § 155(a), Jan. 2, 1968, 81 Stat. 804, contained statement of purposes for the provisions.

Section 2492, Pub. L. 85–905, § 2, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90–247, title I, § 155(b), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91–61, § 1(2), Aug. 20, 1969, 83 Stat. 103, defined the terms "Secretary", "United States", "deaf person", "handicapped", and "construction".

Section 2493, Pub. L. 85–905, § 3, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87–715, § 1(b), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90–247, title I, § 155(c), (d)(1), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91–61, § 1(1), Aug. 20, 1969, 83 Stat. 102, provided for establishment of a loan service of captioned films and educational media for handicapped and the authority of the Secretary.

Section 2494, Pub. L. 85–905, § 4, Sept. 2, 1958, 72 Stat. 1743; Pub. L. 87–715, § 1(c), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 984; Pub. L. 90–247, title I, § 155(e), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91–61, § 1(3), Aug. 20, 1969, 83 Stat. 103, authorized appropriations for fiscal years ending as indicated: $3,000,000 (June 30, 1966, and 1967), $8,000,000 (June 30, 1968, and 1969), $10,000,000 (June 30, 1970), $12,500,000 (June 30, 1971), $15,000,000 (June 30, 1972), and $20,000,000 (June 30, 1973 and thereafter).

Such former provisions are now covered by various sections of Title 20, Education, as follows:

Former Sections	*Title 20 Sections*
2491	1451
2492(1)	1401(14)
2492(2)	1401(2)
2492(3)	Repealed
2492(4)	1401(1)
2492(5)	1401(4)
2493(a), (b)	1452(a), (b)
2493(c)(1)(A) to (C)	1453(a)(1) to (3)
2493(c)(1)(D)	1232b
2493(c)(2)	1453(b)
2493(c)(3)	1404
2494	1454

EFFECTIVE DATE

Provisions of sections repealed effective July 1, 1971, see provisions of section 662 of Pub. L. 91–230, set out in part as a note under former sections 611 to 618 of Title 20, Education.

§ 2495. National Advisory Committee on Education of the Deaf.

(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term.

(1) For the purpose of advising and assisting the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") with respect to the education of the deaf, there is hereby created a National Advisory Committee on Education of the Deaf, which shall consist of twelve persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws.

(2) The membership of the Advisory Committee shall include educators of the deaf, persons interested in education of the deaf, educators of the hearing, and deaf individuals.

(3) The Secretary shall from time to time designate one of the members of the Advisory Committee to serve as Chairman of the Advisory Committee.

(4) Each member of the Advisory Committee shall serve for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and except that the terms of the office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year after the date of appointment.

(5) A member of the Advisory Committee shall not be eligible to serve continuously for more than one term.

(b) Functions of Advisory Committee.

The Advisory Committee shall advise the Secretary concerning the carrying out of existing and the formulating of new or modified programs with respect to the education of the deaf. In carrying out its functions, the Advisory Committee shall (A) make recommendations to the Secretary for the development of a system for gathering information on a periodic basis in order to facilitate the assessment of progress and identification of problems in the education of the deaf; (B) identify emerging needs respecting the education of the deaf, and suggest innovations which give promise of meeting such needs and of otherwise improving the educational prospects of deaf individuals; (C) suggest promising areas of inquiry to give direction to the research efforts of the Federal Government in improving the education of the deaf; and (D) make such other recommendations for administrative action or legislative proposals as may be appropriate.

(c) Advisory professional or technical personnel.

The Secretary may, at the request of the Advisory Committee appoint such special advisory professional or technical personnel as may be necessary to enable the Advisory Committee to carry out its duties.

(d) Compensation and travel expenses.

Members of the Advisory Committee, and advisory or technical personnel appointed pursuant to subsection (c) of this section, while attending meetings or conferences of the Advisory Committee or otherwise serving on business of the Advisory Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day including travel time and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act for persons in the Government service employed intermittently.

(e) Meetings.

The Advisory Committee shall meet at the request of the Secretary, but at least semiannually. (Pub. L. 85–905, § 5, as added Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 984.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are classified generally to Title 5, Government Organization and Employees.

Section 5 of the Administrative Expenses Act, referred to in subsec. (d), was repealed in the general revision of Title 5 and the provisions are now covered by section 5703 of Title 5.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31–1053 of the District of Columbia Code.

Chapter 28.—AREA REDEVELOPMENT PROGRAM

§§ 2501 to 2512. Omitted.

CODIFICATION

Section 2501, Pub. L. 87–27, § 2, May 1, 1961, 75 Stat. 47, stated the Congressional declaration of purpose for the Area Redevelopment Program.

Section 2502, Pub. L. 87–27, § 3, May 1, 1961, 75 Stat. 48; Pub. L. 88–426, title III, 305(22), Aug. 14, 1964, 78 Stat. 425, provided for the appointment and duties of the Area Redevelopment Administrator.

Section 2503, Pub. L. 87–27, § 4, May 1, 1961, 75 Stat. 48, provided for the creation of membership and functions of the Area Redevelopment Advisory Policy Board and for the National Public Advisory Committee on Area Redevelopment.

Section 2504, Pub. L. 87–27, § 5, May 1, 1961, 75 Stat. 48, provided for the designation of redevelopment areas by the Secretary of Commerce and the promulgation of standards for determination and use of facts and data.

Section 2505, Pub. L. 87–27, § 6, May 1, 1961, 75 Stat 50, set forth limitations on loans and participation for industrial projects and set terms, conditions, restrictions and limitations thereon.

Section 2506, Pub. L. 87–27, § 7, May 1, 1961, 75 Stat. 52, provided for the application and conditions for loans for public facilities.

1964, 78 Stat. 423; Pub. L. 88-448, title IV, § 401(g), Aug. 19, 1964, 78 Stat. 400, established the Civilian-Military Liaison Committee, which was abolished and its functions, together with the function of its chairman and other officers, transferred to the President of the United States by sections 1(e) and 3(a) of Reorg. Plan No. 4 of 1965, eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2475. International cooperation.

The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this chapter, and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate. (Pub. L. 85-568, title II, § 205, July 29, 1958, 72 Stat. 432.)

REFERENCES IN TEXT

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§ 2476. Reports to the Congress.

(a) Submission to the President.

The Administration shall submit to the President for transmittal to the Congress, semiannually and at such other times as it deems desirable, a report of its activities and accomplishments.

(b) Presidential report; transmittal.

The President shall transmit to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 2451 (c) of this title.

(c) Recommendations for additional legislation.

Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives described in section 2451 (c) of this title.

(d) Classified information.

No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by, or pursuant to authorization given by, the President. (Pub. L. 85-568, title II, § 206, July 29, 1958, 72 Stat. 432.)

§ 2477. Aerospace Safety Advisory Panel; membership; appointment; term; powers and duties of Panel; Chairman; compensation, travel and other necessary expenses; NASA membership restriction.

There is hereby established an Aerospace Safety Advisory Panel consisting of a maximum of nine members who shall be appointed by the Administrator for terms of six years each. The Panel shall review safety studies and operations plans referred to it and shall make reports thereon, shall advice the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards and shall perform such other duties as the Administrator may request. One member shall be designated by the Panel as its Chairman. Members of the Panel who are officers or employees of the Federal Government shall receive no compensation for their services as such, but shall be allowed necessary travel expenses (or in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in sections 5702, 5704 of Title 5), and other necessary expenses incurred by them in the performance of duties vested in the Panel, without regard to the provisions of subchapter I, chapter 57 of Title 5, the Standardized Government Travel Regulations, or section 5731 of Title 5. Members of the Panel appointed from outside the Federal Government shall each receive compensation at the rate of $100 for each day such member is engaged in the actual performance of duties vested in the Panel in addition to reimbursement for travel, subsistence, and other necessary expenses in accordance with the provisions of the foregoing sentence. Not more than four such members shall be chosen from among the officers and employees of the National Aeronautics and Space Administration. (Pub. L. 90-67, § 6, Aug. 21, 1967, 81 Stat. 170.)

Chapter 27.—LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED

Sec.
2491 to 2494. Repealed.
2495. National Advisory Committee on Education of the Deaf.
(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term.
(b) Functions of Advisory Committee.
(c) Advisory professional or technical personnel.
(d) Compensation and travel expenses.
(e) Meetings.

§§ 2491 to 2494. Repealed. Pub. L. 91-230, title VI, § 662(1), Apr. 13, 1970, 84 Stat. 188.

Section 2491, Pub. L. 85-905, § 1, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87-715, § 1(a), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90-247, title I, § 155(a), Jan. 2, 1968, 81 Stat. 804, contained statement of purposes for the provisions.

Section 2492, Pub. L. 85-905, § 2, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90-247, title I, § 155(b), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91-61, § 1(2), Aug. 20, 1969, 83 Stat. 103, defined the terms "Secretary", "United States", "deaf person", "handicapped", and "construction".

Section 2493, Pub. L. 85-905, § 3, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87-715, § 1(b), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90-247, title I, § 155(c), (d)(1), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91-61, § 1(1), Aug. 20, 1969, 83 Stat. 102, provided for establishment of a loan service of captioned films and educational media for handicapped and the authority of the Secretary.

Section 2494, Pub. L. 85-905, § 4, Sept. 2, 1958, 72 Stat. 1743; Pub. L. 87-715, § 1(c), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 984; Pub. L. 90-247, title I, § 155(e), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91-61, § 1(3), Aug. 20, 1969, 83 Stat. 103, authorized appropriations for fiscal years ending as indicated: $3,000,000 (June 30, 1966, and 1967), $8,000,000 (June 30, 1968, and 1969), $10,000,000 (June 30, 1970), $12,500,000 (June 30, 1971), $15,000,000 (June 30, 1972), and $20,000,000 (June 30, 1973 and thereafter).

Such former provisions are now covered by various sections of Title 20, Education, as follows:

Former Sections	*Title 20 Sections*
2491	1451
2492(1)	1401(14)
2492(2)	1401(2)
2492(3)	Repealed
2492(4)	1401(1)
2492(5)	1401(4)
2493(a), (b)	1452(a), (b)
2493(c)(1)(A) to (C)	1453(a)(1) to (3)
2493(c)(1)(D)	1232b
2493(c)(2)	1453(b)
2493(c)(3)	1404
2494	1454

EFFECTIVE DATE

Provisions of sections repealed effective July 1, 1971, see provisions of section 662 of Pub. L. 91-230, set out in part as a note under former sections 611 to 618 of Title 20, Education.

§ 2495. National Advisory Committee on Education of the Deaf.

(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term.

(1) For the purpose of advising and assisting the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") with respect to the education of the deaf, there is hereby created a National Advisory Committee on Education of the Deaf, which shall consist of twelve persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws.

(2) The membership of the Advisory Committee shall include educators of the deaf, persons interested in education of the deaf, educators of the hearing, and deaf individuals.

(3) The Secretary shall from time to time designate one of the members of the Advisory Committee to serve as Chairman of the Advisory Committee.

(4) Each member of the Advisory Committee shall serve for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and except that the terms of the office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year after the date of appointment.

(5) A member of the Advisory Committee shall not be eligible to serve continuously for more than one term.

(b) Functions of Advisory Committee.

The Advisory Committee shall advise the Secretary concerning the carrying out of existing and the formulating of new or modified programs with respect to the education of the deaf. In carrying out its functions, the Advisory Committee shall (A) make recommendations to the Secretary for the development of a system for gathering information on a periodic basis in order to facilitate the assessment of progress and identification of problems in the education of the deaf; (B) identify emerging needs respecting the education of the deaf, and suggest innovations which give promise of meeting such needs and of otherwise improving the educational prospects of deaf individuals; (C) suggest promising areas of inquiry to give direction to the research efforts of the Federal Government in improving the education of the deaf; and (D) make such other recommendations for administrative action or legislative proposals as may be appropriate.

(c) Advisory professional or technical personnel.

The Secretary may, at the request of the Advisory Committee appoint such special advisory professional or technical personnel as may be necessary to enable the Advisory Committee to carry out its duties.

(d) Compensation and travel expenses.

Members of the Advisory Committee, and advisory or technical personnel appointed pursuant to subsection (c) of this section, while attending meetings or conferences of the Advisory Committee or otherwise serving on business of the Advisory Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day including travel time and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act for persons in the Government service employed intermittently.

(e) Meetings.

The Advisory Committee shall meet at the request of the Secretary, but at least semiannually. (Pub. L. 85-905, § 5, as added Pub. L. 89-258, Oct. 19, 1965, 79 Stat. 984.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are classified generally to Title 5, Government Organization and Employees.

Section 5 of the Administrative Expenses Act, referred to in subsec. (d), was repealed in the general revision of Title 5 and the provisions are now covered by section 5703 of Title 5.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31-1053 of the District of Columbia Code.

Chapter 28.—AREA REDEVELOPMENT PROGRAM

§§ 2501 to 2512. Omitted.

CODIFICATION

Section 2501, Pub. L. 87-27, § 2, May 1, 1961, 75 Stat. 47, stated the Congressional declaration of purpose for the Area Redevelopment Program.

Section 2502, Pub. L. 87-27, § 3, May 1, 1961, 75 Stat. 48; Pub. L. 88-426, title III, 305(22), Aug. 14, 1964, 78 Stat. 425, provided for the appointment and duties of the Area Redevelopment Administrator.

Section 2503, Pub. L. 87-27, § 4, May 1, 1961, 75 Stat. 48, provided for the creation of membership and functions of the Area Redevelopment Advisory Policy Board and for the National Public Advisory Committee on Area Redevelopment.

Section 2504, Pub. L. 87-27, § 5, May 1, 1961, 75 Stat. 48, provided for the designation of redevelopment areas by the Secretary of Commerce and the promulgation of standards for determination and use of facts and data.

Section 2505, Pub. L. 87-27, § 6, May 1, 1961, 75 Stat 50, set forth limitations on loans and participation for industrial projects and set terms, conditions, restrictions and limitations thereon.

Section 2506, Pub. L. 87-27, § 7, May 1, 1961, 75 Stat. 52, provided for the application and conditions for loans for public facilities.

Section 2507, Pub. L. 87-27, § 8, May 1, 1961, 75 Stat. 53, provided for the application, conditions and amounts of grants for public facilities.

Section 2508, Pub. L. 87-27, § 9, May 1, 1961, 75 Stat. 54, provided for the notes and obligations, amount, form and denomination, date of maturity, terms and conditions, interest rate, purchase and sale by the Secretary of Treasury of funds for the Area Redevelopment Fund.

Section 2509, Pub. L. 87-27, § 10, May 1, 1961, 75 Stat. 55, provided for the assistance, information and advice and business firm list to the procurement divisions of Federal instrumentalities.

Section 2510, Pub. L. 87-27, § 11, May 1, 1961, 75 Stat. 55, authorized the Secretary of Commerce to provide technical assistance and authorized appropriations for the purposes of this section.

Section 2511, Pub. L. 87-27, § 12, May 1, 1961, 75 Stat. 55, set forth the powers of the Secretary of Commerce in performing his duties under this chapter.

Section 2512, Pub. L. 97-27, § 13, May 1, 1961, 75 Stat. 57, provided for the termination of eligibility for further assistance as a redevelopment area.

§§ 2513, 2514, Repealed. Pub. L. 89-15, § 9(b), Apr. 26, 1965, 79 Stat. 79.

Section 2513, Pub. L. 87-27, § 16, May 1, 1961, 75 Stat. 58, related to occupational training under the area redevelopment program: studies of various aspects of labor force; area requirements, selection and referral of trainees, agency cooperation in vocational training and retraining programs; additional facilities or services provided by State agencies, public and private institutions; apprenticeship and other training assistance; appropriation; supplementary employment of seasonal workers.

Section 2514, Pub. L. 87-27, § 17, May 1, 1961, 75 Stat. 59, related to retraining subsistence payments: duration, amount of weekly payment; alternative unemployment compensation benefits; administration, finality of determinations; rules and regulations; and appropriation.

Such provisions are now covered by section 2610a of this title.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective July 1, 1965, see section 9(c) of Pub. L. 89-15, set out as a note under section 2610a of this title.

SAVINGS CLAUSE

Section 9(b) of Pub. L. 89-15 provided in part that: "The repeal of these sections [sections 2513 and 2514 of this title] shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligation entered into pursuant to the Area Redevelopment Act [this chapter] prior to the effective date of the repeal of such sections."

§§ 2515 to 2525. Omitted.

CODIFICATION

Section 2515, Pub. L. 87-27, § 18, May 1, 1961, 75 Stat. 60, set forth the penalties for violations of this chapter.

Section 2516, Pub. L. 87-27, § 19, May 1, 1961, 75 Stat. 61, provided for the employment of expediters and administrative employees.

Section 2517, Pub. L. 87-27, § 20, May 1, 1961, 75 Stat. 61, provided that the Secretary of Commerce maintain as a permanent record a list of applications approved for financial assistance and for the public inspection thereof.

Section 2518, Pub. L. 87-27, § 21, May 1, 1961, 75 Stat. 61, provided for the labor standards for laborers and mechanics; their rate of wages and overtime and for the enforcement thereof.

Section 2510, Pub. L. 87-27, § 22, May 1, 1961, 75 Stat. 62, provided for an annual report to the Congress and for the contents thereof.

Section 2520, Pub. L. 87-27, § 23, May 1, 1961, 75 Stat. 62, authorized the appropriations necessary to carry out the provisions of this chapter.

Section 2521, Pub. L. 87-27, § 24, May 1, 1961, 75 Stat. 62; Pub. L. 87-793, § 607(a)(4), Oct. 11, 1962, 76 Stat. 849, provided for the use of other available services and facilities of other agencies and instrumentalities of the Federal Government and for the rules and regulations governing said use.

Section 2522, Pub. L. 87-27, § 25, May 1, 1961, 75 Stat. 63, stated that each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe and provided for the audit of such records by the Federal Government.

Section 2523, Pub. L. 87-27, § 27, May 1, 1961, 75 Stat. 63, provided that the Secretary shall establish and conduct a continuing program of study and research and shall include in his annual report to Congress his findings resulting therefrom and his recommendations for legislative and other action.

Section 2524, Pub. L. 87-27, § 28, May 1, 1961, 75 Stat. 63, defined the terms "State", "States", and "United States" as used in this chapter.

Section 2525, Pub. L. 87-27, § 29, May 1, 1961, 75 Stat. 63; Pub. L. 89-55, June 30, 1965, 79 Stat. 195, stated that the termination date of this chapter and all authority conferred thereunder shall be August 31, 1965 and that the Secretary of the Treasury shall be responsible for the liquidation of the affairs and functions conducted under this chapter.

Chapter 29.—JUVENILE DELINQUENCY AND YOUTH OFFENSES CONTROL

§§ 2541 to 2548. Omitted.

CODIFICATION

Section 2541, Pub. L. 87-274, § 2, Sept. 22, 1961, 75 Stat. 572, set out the Congressional findings and declaration of policy underlying the passage of the "Juvenile Delinquency and Youth Offenses Control Act of 1961", Pub. L. 87-274, Sept. 22, 1961, 75 Stat. 572, which expired June 30, 1967. For the Congressional findings and declaration of purpose underlying the passage of the "Juvenile Delinquency Prevention and Control Act of 1968, Pub. L. 90-445, July 31, 1968, 82 Stat. 462, the successor provision, see section 3801 of this title.

Section 2542, Pub. L. 87-274, § 3, Sept. 22, 1961, 75 Stat. 572; Pub. L. 88-368, § 1, July 9, 1964, 78 Stat. 309, provided for demonstration and evaluation projects. See sections 3812, 3822, 3832, 3861, and 3871 of this title.

Section 2543, Pub. L. 87-274, § 4, Sept. 22, 1961, 75 Stat. 573, provided for grants for the training of personnel in programs for the prevention or control of juvenile delinquency or youth offenses. See section 3861 of this title.

Section 2544, Pub. L. 87-274, § 5, Sept. 22, 1961, 75 Stat. 573, provided for technical assistance services. See section 3871 et seq. of this title.

Section 2545, Pub. L. 87-274, § 6, Sept. 22, 1961, 75 Stat. 573; Pub. L. 88-368, § 2, July 9, 1964, 78 Stat. 309; Pub. L. 89-69, July 8, 1965, 79 Stat. 212, authorized appropriations for the program through June 30, 1967. See section 3882 of this title.

Section 2546, Pub. L. 87-274, § 7, Sept. 22, 1961, 75 Stat. 573, provided for the appointment of technical and advisory committees. See section 3889 of this title.

Section 2547, Pub. L. 87-274, § 8, as added Pub. L. 88-368 § 3, July 9, 1964, 78 Stat. 309, provided for a special study of school attendance and child labor laws, with a report to be given to the President and Congress by January 31, 1966.

Section 2548, Pub. L. 87-274, § 9, as added Pub. L. 88-368, § 3, July 9, 1964, 78 Stat. 309, provided for a Washington metropolitan area demonstration project.

Chapter 30.—MANPOWER DEVELOPMENT AND TRAINING PROGRAM

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SUBCHAPTER I.—MANPOWER REQUIREMENTS, DEVELOPMENT, AND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2614, 2619 of this title.

§ 2571. Congressional statement of findings and purpose.

The Congress finds that there is critical need for more and better trained personnel in many vital occupational categories, including professional, scientific, technical, and apprenticeable categories; that even in periods of high unemployment, many employment opportunities remain unfilled because of the shortage of qualified personnel; and that is in the national interest that current and prospective manpower shortages be identified and that persons who can be qualified for these positions through education and training be sought out and trained as quickly as is reasonably possible, in order that the Nation may meet the staffing requirements of the struggle for freedom. The Congress further finds that the skills of many persons have been rendered obsolete by dislocations in the economy arising from automation or other technological developments, foreign competition, relocation of industry, shifts in market demands, and other changes in the structure of the economy; that Government leadership is necessary to insure that the benefits of automation do not become burdens of widespread unemployment; that the problem of assuring sufficient employment opportunities will be compounded by the extraordinarily rapid growth of the labor force in the next decade, particularly by the entrance of young people into the labor force, that improved planning and expanded efforts will be required to assure that men, women, and young people will be trained and available to meet shifting employment needs; that many persons now unemployed or underemployed, in order to become qualified for reemployment or full employment must be assisted in providing themselves with skills which are or will be in demand in the labor market; that the skills of many persons now employed are inadequate to enable them to make their maximum contribution to the Nation's economy; and that it is in the national interest that the opportunity to acquire new skills be afforded to these people with the least delay in order to alleviate the hardships of unemployment, reduce the costs of unemployment compensation and public assistance, and to increase the Nation's productivity and its capacity to meet the requirements of the space age. The Congress further finds that many professional employees who have become unemployed because of the specialized nature of their previous employment are in need of brief refresher or reorientation educational courses in order to become qualified for other employment in their professions, where such training would further the purposes of this chapter. It is therefore the purpose of this chapter to require the Federal Government to appraise the manpower requirements and resources of the Nation, and to develop and apply the information and methods needed to deal with the problems of unemployment resulting from automation and technological changes and other types of persistent unemployment. (Pub. L. 87–415, title I, § 101, Mar. 15, 1962, 76 Stat. 23; Pub. L. 88–214, § 1, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, § 2, Apr. 26, 1965, 79 Stat. 75.)

AMENDMENTS

1965—Pub. L. 89–15 declared the Congressional finding of unemployed professional employees' need of refresher or reorientation courses for qualification for other employment in their professions.

1963—Pub. L. 88–214 inserted "as quickly as is reasonably possible" and "with the least delay."

SHORT TITLE OF 1965 AMENDMENT

Section 1 of Pub. L. 89–15 provided: "That this Act [which enacted sections 2572a—2572c and 2610a of this title, amended this section and sections 2572, 2582, 2583, 2601, 2611, 2612, 2614—2616, 2619, and 2620 of this title, repealed sections 2513, 2514, and 2588 of this title, and enacted provisions set out as notes under sections 2513 and 2610a of this title] may be cited as the 'Manpower Act of 1965'."

SHORT TITLE

Section 1 of Pub. L. 87–415 provided that Pub. L. 87–415, which enacted this chapter, may be cited as the "Manpower Development and Training Act of 1962."

EX. ORD. NO. 11152. PRESIDENT'S COMMITTEE ON MANPOWER

Ex. Ord. No. 11152, Apr. 15, 1964, 29 F.R. 5271, which established the President's Committee on Manpower, was revoked by Ex. Ord. No. 155, Mar. 13, 1970, 35 F.R. 4543.

§ 2572. Evaluation, information, research, and projects.

To assist the Nation in accomplishing the objectives of technological progress while avoiding or minimizing individual hardship and widespread unemployment, the Secretary of Labor shall—

(1) evaluate the impact of, and benefits and problems created by automation, technological progress, and other changes in the structure of production and demand on the use of the Nation's human resources; establish techniques and methods for detecting in advance the potential impact of such developments; develop solutions to these problems, and publish findings pertaining thereto;

(2) establish a program of factual studies of practices of employers and unions which tend to impede the mobility of workers or which facilitate mobility, including but not limited to early retirement and vesting provisions and practices under private compensation plans; the extension of health, welfare, and insurance benefits to laid-off workers; the operation of severance pay plans; and the use of extended leave plans for education and training purposes. A report on these studies shall be included as a part of the Secretary's report required under section 2574 of this title.

(3) appraise the adequacy of the Nation's manpower development efforts to meet foreseeable manpower needs and recommend needed adjustments, including methods for promoting the most effective occupational utilization of and providing useful work experience and training opportunities for untrained and inexperienced youth;

(4) promote, encourage, or directly engage in programs of information and communication concerning manpower requirements, development, and utilization, including prevention and amelioration of undesirable manpower effects from automation and other technological developments and improvement of the mobility of workers;

(5) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this chapter; and

(6) establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, and other similar groups. In carrying out this subsection the Secretary of Labor shall, where appriate, consult with the Secretaries of Health, Education, and Welfare, and Commerce, and the Director of the Office of Economic Opportunity. Where programs under this paragraph require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare. He shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of this chapter.

(Pub. L. 87-415, title I, § 102 Mar. 15, 1962, 76 Stat. 24; Pub. L. 89-15, §§ 3, 4(b), Apr. 26, 1965, 79 Stat. 75, 76.)

AMENDMENTS

1965—Par. (5). Pub. L. 89-15, § 3(a), inserted ", through grants or contracts," following "arrange."

Par. (6). Pub. L. 89-15, § 3(b), added par. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2601 of this title.

§ 2572a. Job development programs.

The Secretary of Labor shall stimulate and assist, in cooperation with interested agencies both public and private, job development programs, through on-the-job training and other suitable methods, that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment. (Pub. L. 87-415, title I, § 103, as added Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 75.)

§ 2572b. Labor mobility demonstration projects; grants or loans; terms, conditions, and limitations; appropriation limitation.

(a) During the period ending June 30, 1970, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed.

(b) Loans or grants provided under this section shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

(1) there is reasonable assurance of repayment of the loan;

(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

(4) the loan bears interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes; and

(5) the loan is repayable within not more than ten years.

(c) Of the funds appropriated for a fiscal year to carry out this chapter, not more than $5,000,000 may be used for the purposes of this section. (Pub. L. 89-415, title I, § 104, as added Pub. L. 89-15, § 4(a), Apr. 26, 1965, 79 Stat. 76, and amended Pub. L. 89-792, § 2(a), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90-636, § 1(1), Oct. 24, 1968, 82 Stat. 1352.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-636 substituted "1970" for "1968".

1966—Subsec. (a). Pub. L. 89-792 substituted "1968" for "1967".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2610c of this title.

§ 2572c. Trainee placement assistance demonstration projects; appropriation limitation.

During the period ending June 30, 1970, the Secretary of Labor shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate

counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in securing bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. Of the funds appropriated for a fiscal year to carry out this chapter, not more than $300,000 may be used for purposes of this section. (Pub. L. 87–415, title I, § 105, as added Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 76, and amended Pub. L. 89–792, § 2(b), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, § 1(2), Oct. 24, 1968, 82 Stat. 1352.)

AMENDMENTS

1968—Pub. L. 90–636 substituted "1970" for "1968".

1966—Pub. L. 89–792 extended the time for the Secretary of Labor to develop and carry out experimental and demonstration projects from 1967 to 1968, and provided that of the funds appropriated for a fiscal year to carry out the purposes of this chapter, not more than $300,000 may be used instead of $200,000 for the fiscal year ending June 30, 1966 and $300,000 for the fiscal year ending June 30, 1967.

§ 2573. Labor market information and job matching program.

(a) Comprehensive system of information; availability of information.

The Secretary of Labor shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, including but not limited to information regarding—

(1) the nature and extent of impediments to the maximum development of individual employment potential including the number and characteristics of all persons requiring manpower services;

(2) job opportunities and skill requirements;

(3) labor supply in various skills;

(4) occupational outlook and employment trends in various occupations; and

(5) in cooperation and after consultation with the Secretary of Commerce, economic and business development and location trends.

Information collected under this subsection shall be developed and made available in a timely fashion in order to meet in a comprehensive manner the needs of public and private users, including the need for such information in recruitment, counseling, education, training, placement, job development, and other appropriate activities under this chapter and under the Economic Opportunity Act of 1964, the Social Security Act, the Public Works and Economic Development Act of 1965, the Wagner-Peyser Act, the Vocational Education Act of 1963, the Vocational Rehabilitation Act, the Demonstration Cities and Metropolitan Development Act of 1966, and other relevant Federal statutes.

(b) Job matching program.

The Secretary of Labor shall develop and publish on a regular basis information on available job opportunities throughout the United States on a National, State, local, or other appropriate basis for use in public and private job placement and related activities and in connection with job matching programs conducted pursuant to this subsection. The Secretary is directed to develop and establish a program for matching the qualifications of unemployed, underemployed, and low-income persons with employer requirements and job opportunities on a National, State, local, or other appropriate basis. Such programs shall be designed to provide a quick and direct means of communication among local recruitment, job training and placement agencies and organizations, and between such agencies and organizations on a National, State, local, or other appropriate basis, with a view to the referral and placement of such persons in jobs. In the development of such a program, the Secretary shall make maximum possible use of electronic data processing and telecommunication systems for the storage, retrieval, and communication of job and worker information.

(c) Report.

A report on the activities and achievements under this section shall be included in the report required under section 2574 of this title.

(d) Availability of funds for job matching program.

Not less than 2 per centum of the sums appropriated in any fiscal year to carry out subchapters I, II, and III of this chapter shall be available only for carrying out the provisions of subsection (b) of this section. (Pub. L. 87–415, title I, § 106, formerly § 103, Mar. 15, 1962, 76 Stat. 25, renumbered Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 75, and amended Pub. L. 90–636, § 2, Oct. 24, 1968, 82 Stat. 1352.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in text, is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, which is classified to section 2701 et seq. of this title.

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified to section 301 et seq. of this title.

The Public Works and Economic Development Act of 1965, referred to in text, is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, which is classified to section 3121 et seq. of this title.

The Wagner-Peyser Act, referred to in text, is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified to section 49 et seq. of Title 29, Labor.

The Vocational Education Act of 1963, referred to in text, is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, which is classified to section 35 et seq. of Title 20, Education.

The Vocational Rehabilitation Act, referred to in text, is act June 2, 1920, ch. 219, 41 Stat. 735, which is classified to section 31 et seq. of Title 29, Labor.

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in text, is Pub. L. 89–754, Nov. 3, 1966, 80 Stat. 1255, which is classified to section 3301 et seq. of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–636 denominated existing provisions as subsec. (a) and in subsec. (a) as so denominated added provisions expanding the Secretary's program of developing a system of comprehensive labor market information.

Subsecs. (b)—(d). Pub. L. 90–636 added subsecs. (b)—(d).

§ 2574. Manpower requirements, resources, use, and training; reports to President and Congress.

The Secretary of Labor shall make such reports and recommendations to the President as he deems appropriate pertaining to manpower requirements, resources, use, and training; and the President shall transmit to the Congress within sixty days after the beginning of each regular session (commencing with

the year 1963) a report pertaining to manpower requirements, resources, utilization, and training. (Pub. L. 87–415, title I, § 107, formerly § 104, Mar. 15, 1962, 76 Stat. 25, renumbered Pub. L. 89–15, § 4(a), Apr. 26, 1965, 79 Stat. 75.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2572, 2573 of this title.

SUBCHAPTER II.—TRAINING AND SKILL DEVELOPMENT PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2573, 2619 of this title.

PART A.—DUTIES OF THE SECRETARY OF LABOR

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2601, 2611, 2614 of this title.

§ 2581. General responsibility.

In carrying out the purposes of this chapter, the Secretary of Labor shall determine the skill requirements of the economy, develop policies for the adequate occupational development and maximum utilization of the skills of the Nation's workers, promote and encourage the development of broad and diversified training programs, including on-the-job training, designed to qualify for employment the many persons who cannot reasonably be expected to secure full-time employment without such training, and to equip the Nation's workers with the new and improved skills that are or will be required. Whenever appropriate, the Secretary of Labor shall coordinate and provide for combinations of programs, to be pursued concurrently or sequentially, under this chapter with programs under other Federal Acts, where the purposes of this chapter would be accomplished thereby. (Pub. L. 87–415, title II, § 201, Mar. 15, 1962, 76 Stat. 25; Pub. L. 89–794, title X, § 1001(a), Nov. 8, 1966, 80 Stat. 1475.)

AMENDMENTS

1966—Pub. L. 89–794 required the Secretary of Labor, whenever appropriate, to coordinate and provide for combinations of programs, to be pursued concurrently or sequentially, under this chapter with programs under other Federal Acts, where the purposes of this chapter would be accomplished thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2612 of this title.

§ 2582. Selection of trainees.

(a) Programs for testing, counseling, and selecting for occupational training; workers in farm families.

The Secretary of Labor shall provide a program for testing, counseling, and selecting for occupational training under this chapter those unemployed or underemployed persons who cannot reasonably be expected to secure appropriate full-time employment without training. Workers in farm families with less than $1,200 annual net family income shall be considered unemployed for the purpose of this chapter.

(b) Special youth programs for occupational training and further schooling; qualifications of youths.

Whenever appropriate the Secretary shall provide a special program for the testing, counseling, selection, and referral of youths, sixteen years of age or older, for occupational training and further schooling, who because of inadequate educational background and work preparation are unable to qualify for and obtain employment without such training and schooling.

(c) Occupational training for persons 45 years of age or older.

The Secretary of Labor shall provide, where appropriate, a special program of testing, counseling, selection, and referral of persons forty-five years of age or older for occupational training and further schooling designed to meet the special problems faced by such persons in the labor market.

(d) Priority in referral for training.

Although priority in referral for training shall be extended to unemployed persons, the Secretary of Labor shall, to the maximum extent possible, also refer other persons qualified for training programs which will enable them to acquire needed skills. Priority in referral for training shall also be extended to persons to be trained for skills needed within, first, the labor market area in which they reside and, second, within the State of their residence.

(e) Occupational training needs of referred persons; counseling and placement services; follow-up studies.

The Secretary of Labor shall determine the occupational training needs of referred persons, provide for their orderly selection and referral for training under this chapter, and provide counseling and placement services to persons who have completed their training, as well as follow-up studies to determine whether the programs provided meet the occupational training needs of the persons referred.

(f) Expectation of employment; acceptance of employment outside area of residence.

Before selecting a person for training (other than for training under subsection (j) of this section), the Secretary shall determine that there is a reasonable expectation of employment in the occupation for which the person is to be trained. If such employment is not available in the area in which the person resides, the Secretary shall obtain reasonable assurance of such person's willingness to accept employment outside his area of residence.

(g) Referral for training in occupations requiring less than two weeks training.

The Secretary shall not refer persons for training in an occupation which requires less than two weeks training, unless there are immediate employment opportunities in such occupation.

(h) Duration of training program.

The duration of any training program to which a person is referred shall be reasonable and consistent with the occupation for which the person is being trained.

(i) Termination of training; eligibility for future allowances.

Upon certification by the responsible training agency that a person who has been referred for training does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, the Secretary shall

forthwith terminate his training and subsistence allowances, and his transportation allowances except such as may be necessary to enable him to return to his regular place of residence after termination of training, and withdraw his referral. Such person shall not be eligible for such allowances for one year thereafter.

(j) Referral for basic education skills to enable occupational training for which there is reasonable expectation of employment or where needed to render those referred employable.

Whenever appropriate, the Secretary of Labor may also refer, for the attainment of basic education and communications and employment skills, those eligible persons who indicate their intention to and will thereby be able to pursue, subsequently or concurrently, courses of occupational training of a type for which there appears to be a reasonable expectation of employment, or who have completed or do not need occupational training but do require such other preparation to render them employable. Such referrals shall be considered a referral for training within the meaning of this chapter.

(k) Agreement between Secretary of Labor and Secretary of Health, Education, and Welfare for physical examination and medical treatment of those selected for training; payment for such services; limit on amounts expended.

The Secretary of Labor may enter into an agreement with the Secretary of Health, Education, and Welfare for the purpose of furthering the objectives of this chapter by facilitating the provision of appropriate physical examinations, medical treatment, and prostheses for persons selected or otherwise eligible to be selected for training under this chapter. The agreement may provide that where any such person cannot reasonably be expected to pay the cost of the services and the services are not otherwise available without cost to him from any other resource in the community, there may be expended (from sums appropriated to carry out this subchapter and pursuant to arrangements made by the Secretary of Health, Education, and Welfare) not more than an aggregate of $100 to provide such services to that person. If the Secretary of Health, Education, and Welfare is unable to arrange for the provision of services under this section, the Secretary of Labor may expend not more than an aggregate of $100 to provide such services to any one person.

(*l*) Experimental program for part-time training of both employed and unemployed where there are skill shortages.

In order to assist in providing qualified workers in areas or in occupations in which there are critical skill shortages the Secretary of Labor shall, in accordance with regulations prescribed by him, provide an experimental program for part-time training of persons, including employed persons, to meet such skill shortages. (Pub. L. 87–415, title II, § 202, Mar. 15, 1962, 76 Stat. 25; Pub. L. 88–214, § 2, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, § 5, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89–792, § 3, Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, § 3(a), Oct. 24, 1968, 82 Stat. 1353.)

AMENDMENTS

1968—Subsec. (f). Pub. L. 90–636 substituted reference to "subsection (j) of this section" for reference to "subsection (i) of this section".

1966—Subsec. (c). Pub. L. 89–792, § 3(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 89–792, § 3(a), redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsecs. (f). Pub. L. 89–792, § 3(a), redesignated former subsec. (e) as (f) and as so designated changed reference to subsec. (i) to reference to subsec. (j).

Subsecs. (g), (h). Pub. L. 89–792, § 3(a), redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

Subsecs. (i). Pub. L. 89–792, § 3(b), redesignated former subsec. (h) as (i) and struck out former subsec. (i). Substance of former subsec. (i) is now incorporated in subsec. (j).

Subsecs. (j)—(*l*). Pub. L. 89–792, § 3(b), added subsecs. (j), (k), and (*l*).

1965—Subsec. (i). Pub. L. 89–15 eliminated the additional twenty week eligibility for training allowances for persons selected for basic education courses.

1963—Subsec. (a). Pub. L. 88–214, § 2(a), eliminated provisions directing the Secretary, when appropriate, to provide a special program for testing, counseling and selecting youths 16 years or older for occupational training and further schooling. See subsec. (b) of this section.

Subsec. (b). Pub. L. 88–214, § 2(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 88–214, § 2(b), redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 88–214, § 2(b), redeisgnated former subsec. (c) as (d). Former subsec. (d) redesignated (e)

Subsec. (e). Pub. L. 88–214, § 2 (b), (c), redesignated former subsec. (d) as (e), and inserted "(other than for training under subsection (i) of this section)." Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 88–214, § 2(b), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 88–214, § 2(b), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 88–214, § 2(b), redesignated former subsec. (g) as (h).

Subsec. (i). Pub. L. 88–214, § 2(d), added subsec. (i).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2583, 2601, 2612, 2616 of this title.

§ 2583. Training allowances.

(a) Agreements with States; payment of weekly allowances; limitation on amount and duration; supplemental allowances; on-the-job trainees; effect of part-time work on amount of allowance.

The Secretary of Labor may, on behalf of the United States, enter into agreements with States under which the Secretary of Labor shall make payments to such States either in advance or by way of reimbursement for the purpose of enabling such States, as agents for the United States, to make payment of weekly training allowances to unemployed persons selected for training pursuant to the provisions of section 2582 of this title and undergoing such training in a program operated pursuant to the provisions of this chapter. Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances

for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided,* That the basic amount of such payments may be increased by $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further,* That in any week an individual who, but for his training, would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess. With respect to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands the Secretary shall by regulation determine the amount of the training allowance to be paid any eligible person taking training under this chapter.

With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this chapter. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.

For persons undergoing on-the-job training, the amount of any payment which would otherwise be made by the Secretary of Labor under this section shall be reduced by an amount which bears the same ratio to that payment as the number of compensated hours per week under the training program bears to forty hours.

The training allowance of a person engaged in training under section 2584 or 2601 of this title shall not be reduced on account of employment (other than employment under an on-the-job training program under section 2584 of this title) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked (other than in employment under such an on-the-job training program) in excess of twenty hours per week.

(b) Transportation and subsistence expenses.

The Secretary of Labor is authorized to pay to any person engaged in training under this subchapter, including compensated full-time on-the-job training, such sums as he may determine to be necessary to defray transportation expenses, and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee: *Provided,* That the Secretary in defraying such subsistence expenses shall not afford any individual an allowance exceeding $35 per week, at the rate of $5 per day; nor shall the Secretary authorize any transportation expenditure exceeding the rate of 10 cents per mile, except in the case of local transportation where he may authorize reimbursement for the trainee's travel by the most economical mode of public transportation, and except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of Title 5 exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necessary to carry out the purposes of this chapter, and subject to such limitations as he may prescribe.

(c) Limitation on availability of training allowances; payment of training allowances to trainees from Neighborhood Youth Corps program.

The Secretary of Labor shall pay training allowances only to unemployed persons who have had at least one year of experience in gainful employment: *Provided,* That he shall not pay training allowances to members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed, unless the Secretary determines that such payments are necessary in order for the trainees to undertake or to continue training: *Provided further,* That no allowances shall be paid to any member of a family or household if the Secretary of Labor determines that the head of such family or household has terminated his employment for the purpose of qualifying such member for training allowances under this section. Notwithstanding the preceding sentence, the Secretary may pay training allowances at a rate which shall not exceed the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available to youths seventeen years of age or older who require such training allowance in order to undertake training, who are referred for training in accordance with section 2582(b) of this title, and who are not entitled to allowances under the preceding sentence, except that no such training allowance shall be paid to any such youth who has not graduated from high school, unless the Secretary has satisfied himself that such youth has continuously failed to attend school for a period of not less than one year or that the local authorities after pursuing all appropriate procedures, including guidance and counseling, have concluded, after considering any assistance available under section 35k of Title 20, that further school attendance by such youth in any regular academic or vocational program is no longer practicable under the circumstances. The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowances (or who would be entitled thereto but for the receipt of unemployment compensation). The Secretary of Labor may authorize continued payments of allowances to any youth who becomes twenty-two years of age during the course of his training, if he has completed

a substantial part of such training. Notwithstanding any provision to the contrary in this subsection or in subsection (h) of this section, the Secretary may refer any individual who has completed a program under part B of title I of the Economic Opportunity Act of 1964 to training under this chapter, and such individual may be paid a training allowance as provided in subsection (a) of this section without regard to the requirements imposed on such payments by the preceding sentences of this subsection or by subsection (h) of this section. Such payments shall not exceed the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available. Such persons shall not be deemed youths for the purpose of applying the provision under this subsection limiting the number of youths who may receive training allowances.

(d) Receipt of unemployment compensation.

No training allowance shall be made to any person otherwise eligible who, with respect to the week for which such payment would be made, has received or is seeking unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law, but if the appropriate State or Federal agency finally determines that a person denied training allowances for any week because of this subsection was not entitled to unemployment compensation under title XV of the Social Security Act or such Federal or State law with respect to such week, this subsection shall not apply with respect to such week.

(e) Refusal to accept training.

A person who refuses, without good cause, to accept training under this chapter shall not, for one year thereafter, be entitled to training allowances.

(f) Provisions of agreements; finality of determinations.

Any agreement under this section may contain such provisions (including, as far as may be appropriate, provisions authorized or made applicable with respect to agreements concluded by the Secretary of Labor pursuant to title XV of the Social Security Act) as will promote effective administration, protect the United States against loss and insure the proper application of payments made to the State under such agreement. Except as may be provided in such agreements, or in regulations hereinafter authorized, determinations by any duly designated officer or agency as to the eligibility of persons for weekly training allowances under this section shall be final and conclusive for any purposes and not subject to review by any court or any other officer.

(g) Reimbursement for State unemployment compensation and Railroad Unemployment Insurance Act payments.

(1) If State unemployment compensation payments are paid to a person taking training under this chapter and eligible for a training allowance, the State making such payments shall be reimbursed from funds herein appropriated. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the States and such amount shall then be placed in the State's unemployment trust fund account.

(2) If unemployment benefits under the Railroad Unemployment Insurance Act are paid to a person taking training under this chapter and eligible for a training allowance, the railroad unemployment insurance account in the unemployment trust fund shall be reimbursed, from funds herein appropriated, for all of such benefits paid. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the Railroad Retirement Board and such amount shall then be placed in the railroad unemployment insurance account.

(h) Denial of allowance for one year after completion or other termination of training; grant of allowance where Secretary determines good cause for further training.

A person who, in connection with an occupational training program, has received a training allowance or whose unemployment compensation payments were reimbursed under the provisions of this chapter or any other Federal Act shall not be entitled to training allowances under this chapter for one year after the completion or other termination (for other than good cause) of the training with respect to which such allowance or payment was made unless the Secretary determines that there is good cause to permit an individual referred to further training to receive training allowances so that he may be prepared adequately for full-time employment.

(i) Training for occupations requiring training period of less than six days.

No training allowance shall be paid to any person who is receiving training for an occupation which requires a training period of less than six days.

(j) Advance payments of training allowances; amount of advancements; repayment of advancements.

To assure the maximum use of training opportunities, the Secretary of Labor is authorized to make, or cause to be made, advance payments of training allowances or a part thereof to individuals selected for training who, because of immediate financial needs for the maintenance of themselves or their dependents pending receipt of training allowances, would otherwise be unable to enter or continue training. The total advance payments to a trainee under this subsection outstanding at any time shall not exceed the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the four-calendar-quarter period for which such data are available most immediately prior to the commencement of training by such trainee. Such advance payments shall be repaid either through deductions from training allowances or through other arrangements with such trainee.

(k) Training allowance for part-time trainees.

Under such standards as the Secretary of Labor may find appropriate to achieve the purposes of section 2582(*l*) of this title, an individual referred to

part-time training under such section shall be paid an amount not to exceed $10 with respect to each week in which he is engaged in such training and such payment shall be in lieu of any other payments to which he may otherwise be entitled under this section.

(*l*) Denial of training allowance where trainee receives funds pursuant to State plan approved under Social Security Act; allowances where necessary to defray expenses of training; training incentive allowance; training allowances not to be regarded as income or resources in determining need under State approved plan.

(1) No training allowance shall be paid to any person for any period for which a money payment has been made with respect to the need of that person under a State plan which has been approved under title I, IV, X, XIV, or XVI of the Social Security Act and which meets the requirements of the first sentence of paragraph (2) of this subsection. The Secretary of Labor is authorized to pay to any such person (A) such sums as the Secretary determines to be necessary to defray expenses of that person which are attributable to training pursuant to the provisions of this chapter, and (B) a training incentive payment of not more than $20 per week. Persons receiving payments under the preceding sentence shall be counted for purposes of the third sentence of subsection (c) of this section as though they were receiving training allowances.

(2) Notwithstanding the provisions of titles I, IV, X, XIV, and XVI of the Social Security Act, a State plan approved under any such title shall provide that no payment made to any person pursuant to paragraph (1) of this subsection shall be regarded (A) as income or resources of that person in determining his need under such approved State plan, or (B) as income or resources of any other person in determining the need of that other person under such approved State plan. No funds to which a State is otherwise entitled under title I, IV, X, XIV, or XVI of the Social Security Act for any period before the first month beginning after the adjournment of the State's first regular legislative session which adjourns more than sixty days after November 7, 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of this paragraph. (Pub. L. 87–415, title II, § 203, Mar. 15, 1962, 76 Stat. 26; Pub. L. 87–729, Oct. 1, 1962, 76 Stat. 679; Pub. L. 88–214, § 3, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, § 6, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89–792, § 4, Nov. 7, 1966, 80 Stat. 1435; Pub. L. 89–794, title X, § 1001(b), Nov. 8, 1966, 80 Stat. 1475; Pub. L. 90–636, §§ 4, 5(a), Oct. 24, 1968, 82 Stat. 1353.)

REFERENCES IN TEXT

Title XV of the Social Security Act, referred to in subsecs. (a), (d) and (f), is classified to section 1361 et seq. of this title.

The Internal Revenue Code of 1954, referred to in subsec. (c), is classified to Title 26.

Section 35h of Title 20, referred to in subsec. (c), was omitted in the general reorganization of the Vocational Education Act of 1963 by Pub. L. 90–576 and is now covered by section 1371 et seq. of Title 20, Education.

Part B of title I of the Economic Opportunity Act of 1964, referred to in subsec. (c), is classified to section 2731 et seq. of this title.

The Railroad Unemployment Insurance Act, referred to in subsec. (g), is classified to chapter 11 of Title 45, Railroads.

Titles I, IV, X, XIV, and XVI of the Social Security Act, referred to in subsec. (*l*), are classified to subchapters I, IV, X, XIV, and XVI of chapter 7 of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–636, § 5(a), inserted reference to American Samoa and the Trust Territory of the Pacific Islands.

Subsec. (c). Pub. L. 90–636, § 4, substituted the average weekly gross unemployment compensation payment for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available for a flat figure of $20 per week as the maximum rate for training allowances.

1966—Subsec. (c). Pub. L. 89–794 added provision that completion of a program of training under part B of title I of the Economic Opportunity Act of 1964 was not a bar to referral for training under this chapter or payment thereunder but that payments could not exceed the average weekly gross unemployment compensation payment for a week of total unemployment in the State and that such persons were not to be deemed youths for the purpose of applying the provision under this subsection limiting the number of youths who may receive training allowances. The identical provision was added by Pub. L. 89–792.

Pub. L. 89–792, § 4(a), shortened from 2 years to 1 year the period of experience in gainful employment required as a prerequisite to the receipt of training allowances, permitted a youth who has not graduated from high school to receive a training allowance if either he has been out of school for 1 year or the local authorities have concluded that further school attendance no longer is practicable, and permitted the Secretary of Labor to refer individuals for training who have completed a program under the Neighborhood Youth Corps program and pay such trainees a training allowance.

Subsec. (h). Pub. L. 89–792, § 4(b), empowered the Secretary of Labor to refer an individual for further training and to give such individual a training allowance, notwithstanding that such individual has received a training allowance within one year prior to the start of the further training, where it is necessary to adequately prepare him for full-time employment.

Subsecs. (j)—(*l*). Pub. L. 89–792, § 4(c), added subsecs. (j)—(*l*).

1965—Subsec. (a). Pub. L. 89–15, § 6(a), increased the length of the maximum period for which a person may receive training allowances from fifty-two weeks (except where authorized for individuals referred for training under section 2582(i) of this title) to one hundred and four weeks; permitted computation of maximum training allowance on basis of average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State paying training allowance during most recent four-calendar-quarter period for which such data are available, rather than the average weekly unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State paying the training allowance during the most recent quarter for which such data are available; permitted increases in the basic amount of training allowance payments by $5 a week for each dependent over two up to a maximum of four additional dependents; provided that supplemental training allowances paid to trainees receiving unemployment compensation shall equal the amount by which the allowance they would be eligible to receive (but for the receipt of unemployment compensation) under the above provisions exceeds their unemployment compensation; inserted in the third par. "under the training program" after "compensated hours per week"; and permitted on-the-job trainees to engage in up to twenty hours of outside work without a reduction in their training allowances.

Subsec. (b). Pub. L. 89–15, § 6(b), substituted authorization for transportation allowances for commuting from a trainee's regular residence to his place of training and full payment of local transportation costs by the

most economical mode of public transportation, for former authorization for payment of transportation expenses only to persons in training at facilities beyond commuting distance from their residence and only at a rate not exceeding ten cents per mile and authorized reasonable increases in the ten cents per mile limit on transportation payments and the $5 per day limit on subsistence payments in the noncontiguous States and areas outside the continental United States where the Secretary determined increases were necessary.

Subsec. (c). Pub. L. 89–15, § 6(c), permitted more than one member of a family to receive training allowances, prohibited payment of such allowances to members of a family if the head of the family is employed unless the Secretary determined that allowances were necessary for a trainee to undertake or continue with training, prohibited such allowances where the head of a family terminated his employment to qualify his dependents for training allowances, provided that more than 25 per centum of persons receiving training may be youths under twenty-two if necessary for effective management of training programs and authorized continuance of allowances to any youth becoming twenty-two during the course of his training if he has substantially completed his training.

Subsecs. (d)—(f). Pub. L. 89–15, § 6(d), redesignated former subsecs. (e)—(g) as (d)—(f). Former subsec. (d), which required the States to bear one-third of the cost of training allowances paid under this section in the fiscal year ending June 30, 1966, and one-half of the cost in subsequent fiscal years, was repealed by such section 6(d).

Subsec. (g). Pub. L. 89–15, § 6 (d), (e), redesignated former subsec. (h) as (g) and deleted from the first sentence for par. (2) the words "prior to July 1, 1965, for 66⅔ per centum of the amount of such benefits paid during the fiscal year ending June 30, 1966, and 50 per centum of the amount of such benefit paid thereafter" following "all of such benefits paid." Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 89–15, § 6(d), redesignated former subsecs. (i), (j) as (h), (i). Former subsec. (h) redesignated (g).

1963—Subsec. (a). Pub. L. 88–214, § 3(a), inserted "(except where authorized for individuals referred for training under section 2582(i) of this title)", "$10 more than", wherever appearing, and provided that the allowance of a person in full-time training under section 2601 of this title shall not be reduced because of part-time employment not exceeding 20 hours a week, but shall be reduced equal to the full earnings for hours worked in excess of 20 hours per week.

Subsec. (c). Pub. L. 88–214, § 3(b), lowered the requirement of experience in gainful employment from 3 to 2 years, included members of a household in which the head of the household or of the family is unemployed, provided that only one member of a household may receive allowances under this chapter at one time, lowered the age at which youths may receive training allowances from 19 to 17, provided that no allowance shall be paid to any youth who has not graduated from high school unless such youth has continuously failed to attend school for a period of not less than 1 year and local authorities have concluded that further school attendance by such youth in any regular program is impractical, and raised the percentage of the persons receiving training allowances who may be youths under age 22, from 5 per centum to 25 per centum.

Subsec. (d). Pub. L. 88–214, § 3(c), reduced the State's percentage of payments for the fiscal years ending on June 30, 1966, from 50 per centum to 33⅓ per centum, and eliminated provisions requiring the State to pay 50 per centum for the fiscal year ending on June 30, 1965.

Subsec. (h)(2). Pub. L. 88–214, § 3(d), increased the amount paid the railroad unemployment insurance account from 50 per centum to the entire amount for the fiscal year ending June 30, 1965, and from 50 per centum to 66⅔ per centum for the fiscal year ending June 30, 1966.

1962—Subsec. (h). Pub. L. 87–729 designated existing provisions as par. (1), and added par. (2).

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87–729 provided in part that the amendment to subsec. (h) of this section by Pub. L. 87–729 shall be effective Mar. 15, 1962.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2610a, 2612 of this title.

§ 2584. On-the-job training.

(a) Encouragement, development, and adoption of programs.

The Secretary of Labor shall encourage, develop, and secure the adoption of programs for on-the-job training needed to equip persons selected for training with the appropriate skills. The Secretary shall, to the maximum extent possible, secure the adoption by the States and by private and public agencies, employers, trade associations, labor organizations and other industrial and community groups which he determines are qualified to conduct effective training programs under this subchapter of such programs as he approves, and for this purpose he is authorized to enter into appropriate agreements with them: *Provided,* That the Secretary shall not refuse to receive for consideration any application from an applicant who desires to conduct a training program under this part.

(b) Training standards.

In adopting or approving any training program under this part, and as a condition to the expenditure of funds for any such program, the Secretary shall make such arrangements as he deems necessary to insure adherence to appropriate training standards, including assurances—

(1) that the training content of the program is adequate, involves reasonable progression, and will result in the qualification of trainees for suitable employment;

(2) that the training period is reasonable and consistent with periods customarily required for comparable training;

(3) that adequate and safe facilities, and adequate personnel and records of attendance and progress are provided; and

(4) that the trainees are compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations hereinafter authorized, considering such factors as industry, geographical region, and trainee proficiency.

(c) Supplementary classroom instruction.

Where on-the-job training programs under this part require supplementary classroom instruction, appropriate arrangements for such instruction shall be agreed to by the Secretary of Health, Education, and Welfare and the Secretary of Labor. (Pub. L. 87–415, title II, § 204, Mar. 15, 1962, 76 Stat. 28; Pub. L. 90–636, § 6, Oct. 24, 1968, 82 Stat. 1353.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–636 added proviso requiring the Secretary to receive for consideration applications from applicants desiring to conduct training programs under this part.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2583, 2612 of this title.

§ 2585. Advisory committees.

(a) National Advisory Committee; appointment; members; Chairman; recommendations; meetings.

The Secretary shall appoint a National Advisory Committee which shall consist of ten members and shall be composed of representatives of labor, management, agriculture, education, and training, and the public in general. From the members appointed to such Committee the Secretary shall designate a Chairman. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of his duties under this chapter. Such Committee shall hold not less than two meetings during each calendar year.

(b) Organization of labor-management-public advisory committees.

For the purpose of making expert assistance available to persons formulating and carrying on programs under this subchapter, the Secretary shall, where appropriate, require the organization on a community, State, and/or regional basis of labor-management-public advisory committees.

(c) Acceptance of gifts or bequests by National Advisory Committee.

The National Advisory Committee may accept gifts or bequests, either for carrying out specific programs or for its general activities or for its responsibilities under subsection (b) of this section.

(d) Compensation of members of National Advisory Committee.

Appointed members of the National Advisory Committee shall be paid compensation at the rate of $50 per diem when engaged in the work of the National Advisory Committee, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (section 73b–2 of Title 5) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(e) Exemption of National Advisory Committee from other laws; limitation.

(1) Any member of the National Advisory Committee is exempted, with respect to such appointment, from the operation of sections 281, 283, and 1914 of Title 18, and section 99 of Title 5, except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) of this subsection shall not extend—

(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment or

(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

(Pub. L. 87–415, title II, § 205, Mar. 15, 1962, 76 Stat. 28; Pub. L. 88–214, § 4, Dec. 19, 1963, 77 Stat. 423.)

REFERENCES IN TEXT

Section 73b–2 of Title 5, referred to in subsec. (d), was repealed in the general revision of Title 5, and the provisions are now covered by section 5703 of Title 5, Government Organization and Employees.

Sections 281, 283 and 1914 of Title 18, referred to in section (e)(1), were repealed by Pub. L. 87–849, § 2, Oct. 23, 1962, 76 Stat. 1126 and the provisions are now covered by sections 203, 205 and 209, respectively, of Title 18, Crimes and Criminal Procedure.

Section 99 of Title 5, referred to in subsec. (e)(1), was repealed in the general revision of Title 5 and the provisions are now covered by section 207 of Title 18.

AMENDMENTS

1963—Subsec. (b). Pub. L. 88–214, § 4(b), substituted provisions directing the Secretary, where appropriate, to require the organization on a community, State, and/or regional basis of labor-management-public advisory committees, for provisions which directed the National Advisory Committee to encourage and assist in the organization on a plant, community, regional, or industry basis of labor-management-public committees and similar groups, and authorized it to assist such groups as well as existing groups organized for similar purposes.

Subsec. (d). Pub. L. 88–214, § 4(c), inserted "National Advisory" preceding "Committee" wherever appearing.

Subsec. (e). Pub. L. 88–214, § 4(c), inserted "National Advisory" preceding "Committee."

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2612 of this title.

§ 2586. Agreements for utilization of services of appropriate State agencies.

(a) The Secretary of Labor is authorized to enter into an agreement with each State, or with the appropriate agency of each State, pursuant to which the Secretary of Labor may, for the purpose of carrying out his functions and duties under this subchapter, utilize the services of the appropriate State agency and, notwithstanding any other provision of law, may make payments to such State or appropriate agency for expenses incurred for such purposes.

(b) Any agreement under this section may contain such provisions as will promote effective administration, protect the United States against loss and insure that the functions and duties to be carried out by the appropriate State agency are performed in a manner satisfactory to the Secretary. (Pub. L. 87–415, title II, § 206, Mar. 15, 1962, 76 Stat. 29.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2612 of this title.

§ 2587. Rules and regulations.

The Secretary of Labor shall prescribe such rules and regulations as he may deem necessary and appropriate to carry out the provisions of this part. (Pub. L. 87–415, title II, § 207, Mar. 15, 1962, 76 Stat. 29.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2612 of this title.

§ 2588. Repealed. Pub. L. 89–15, § 7, Apr. 26, 1965, 79 Stat. 78.

Section, Pub. L. 87–415, title II, § 208, as added Pub. L. 88–214, § 5, Dec. 19, 1963, 77 Stat. 423, provided for labor mobility demonstration projects during the period ending June 30, 1965, and for assistance in the form of grants or loans, and limited the amount of grants, loans, and appropriations for such use, and is now covered by section 2572b of this title.

PART B.—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2611, 2614 of this title.

§ 2601. General responsibility.

(a) The Secretary of Health, Education, and Welfare shall, pursuant to the provisions of this subchapter, enter into agreements with States under which the appropriate State education agencies will undertake to provide training needed to equip persons referred to the Secretary of Health, Education, and Welfare by the Secretary of Labor pursuant to section 2582 of this title, for the occupations specified in the referrals, except that with respect to education to be provided pursuant to referrals under subsection (b) or (j) of section 2582 of this title, the Secretary of Health, Education, and Welfare may make arrangements for the provision of the education to be provided under such subsection through other appropriate education agencies. Such State agencies shall provide for such training through public educational agencies or institutions or through arrangements with private educational or training institutions where such private institutions can provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, or where such institutions can, at comparable cost, (1) provide substantially equivalent training, or (2) make possible an expanded use of the individual referral method, or (3) aid in reducing more quickly unemployment or current and prospective manpower shortages. The State agency shall be paid not more than 90 per centum of the cost to the State of carrying out the agreement, unless the Secretary of Health, Education, and Welfare determines that payments in excess of 90 per centum are necessary because such payments with respect to private institutions or programs carried out in conjunction with programs or projects under section 2572(6) of this title are required to give full effect to the purposes of the chapter, and except that the State agency for the Trust Territory of the Pacific Islands may be paid up to 100 per centum of such costs: *Provided,* That for the period ending June 30, 1966, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services. Such agreements shall contain such other provisions as will promote effective administration (including provision (1) for reports on the attendance and performance of trainees, (2) for immediate certification to the Secretary of Labor by the responsible training agency with respect to each person referred for training who does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, and (3) for continuous supervision of the training programs conducted under the agreement to insure the quality and adequacy of the training provided), protect the United States against loss, and assure that the functions and duties to be carried out by such State agency are performed in such fashion as will carry out the purposes of this subchapter. The Secretary of Health, Education, and Welfare shall give preference to training and education provided through State vocational education agencies and other State education agencies. However, in any case in which he determines that it would permit persons to begin their training or education within a shorter period of time, or permit the needed training or education to be provided more economically, or more effectively, he may provide the needed training or education by agreement or contract made directly with public or private training or educational facilities or through such other arrangements as he deems necessary to give full effect to this chapter.

(b) In making arrangements for institutional training financed in whole or in part with funds appropriated to carry out subchapter I, and subchapter II, parts A, B, C, and D of this chapter including but not limited to basic education, employability and communications skills, prevocational training, vocational and technical programs, and supplementary or related instruction for on-the-job training whether conducted at the job site or elsewhere, priority shall be given to the use of skills centers as established under the authority of this section. (Pub. L. 87–415, title II, § 231, Mar. 15, 1962, 76 Stat. 30; Pub. L. 88–214, § 6, Dec. 19, 1963, 77 Stat. 404; Pub. L. 89–15, § 8, Apr. 26, 1965, 79 Stat. 78; Pub. L. 89–792, § 5, Nov. 7, 1966, 80 Stat. 1436; Pub. L. 90–636, §§ 3(b), 5(b), 7, Oct. 24, 1968, 82 Stat. 1353.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–636, §§ 3(b), 5(b), 7, denominated existing provisions as subsec. (a), and, in subsec. (a) as so denominated, substituted reference to subsec. (j) of section 2582 of this title for reference to subsec. (i) of section 2582 of this title, and added provisions authorizing the payment of 100 per centum of the cost of carrying out the agreement in the case of the State agency for the Trust Territory of the Pacific Islands.

Subsec. (b). Pub. L. 90–636, § 7, added subsec. (b).

1966—Pub. L. 89–792 struck out provision limiting appropriate State education agencies to State vocational education agencies with which the Secretary of Health, Education, and Welfare was directed to enter into agreements provided that the requirement that the State match a percentage of the funds of the training program will not apply with respect to programs carried out in conjunction with programs under section 2572(6) of this title, and substituted provisions directing the Secretary to give preference to training provided through State educational and vocational education agencies but empowering him to make agreements with public or private training institutions or to make any other arrangements he deems necessary when it would permit persons to begin their training sooner or when the training could be provided more economically or efficiently, for provisions limiting circumstances as to when the Secretary may provide needed training by agreement with public or private training institutions to instances when a State does not enter into an agreement under this section and when a State agency under an agreement does not provide training.

1965—Pub. L. 89–15 required State agencies to provide for training through arrangements with private educational or training institutions where such private institutions can provide equipment or services not available in public institutions, make possible an expanded use of the individual referral method, or aid in reducing more quickly unemployment or current and prospective manpower shortages and raised the amount the State agency shall be paid for the fiscal year ending June 30, 1966 from

66⅔ per centum to 100 per centum and from 50 per centum to not more than 90 per centum for subsequent fiscal years unless the Secretary determined that payments in excess of 90 per centum were necessary to give full effect to the purposes of this chapter and provided for non-Federal contributions in cash or kind.

1963—Pub. L. 88-214 provided that with respect to education pursuant to section 2582 (b), (i), of this title, the Secretary may arrange for education through appropriate education agencies other than State vocational education agencies, substituted provisions permitting training through arrangements with private educational or training institutions "where such institutions can provide substantially equivalent training with reduced Federal expenditures", for provisions which permitted such arrangements when public agencies or institutions were not adequate for the purpose, and raised the amount the the State agency shall be paid for the fiscal year ending June 30, 1965, from 50 per centum of the cost to 100 per centum, and for the fiscal year ending June 30, 1966, from 50 per centum to 66⅔ per centum.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2583, 2603, 2612 of this title.

§ 2602. Rules and regulations.

The Secretary of Health, Education, and Welfare may prescribe such rules and regulations as he may deem necessary and appropriate to carry out the provisions of this part. (Pub. L. 87-415, title II, § 232, Mar. 15, 1962, 76 Stat. 30.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2612 of this title.

§ 2603. Annual report to Congress.

Prior to April first of each year, the Secretary of Health, Education, and Welfare shall make an annual report to Congress. Such report shall contain an evaluation of the programs under section 2601 of this title, the need for continuing such programs, and recommendations for improvement. The reports shall also contain progress reports on the vocational training study which will be conducted under the supervision of the Secretary during 1966 and 1967. (Pub. L. 87-415, title II, § 233, as added Pub. L. 89-792, § 8(b), Nov. 7, 1966, 80 Stat. 1437.)

PART C.—REDEVELOPMENT AREAS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2601, 2614 of this title.

AMENDMENTS

1965—Pub. L. 89-15, § 9(a), Apr. 26, 1965, 79 Stat. 79, added heading of Part C.

§ 2610a. Supplementary training program in redevelopment areas; duties of the Secretaries; selection of trainees; occupational training or retraining needs of referred persons; expectation of employment; eligibility for allowances; limitation on amount and duration; rules and regulations; apportionment of funds; contributions from States.

The Secretaries of Labor and of Health, Education, and Welfare, in accordance with their respective responsibilities under parts A and B of this subchapter, are authorized to provide a supplementary program of training and training allowances, in consultation with the Secretary of Commerce, for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation. Such program shall be carried out by the Secretaries of Labor and of Health, Education, and Welfare in accordance with the provisions otherwise applicable to programs under this chapter and with their respective functions under those provisions, except that—

(1) the Secretary of Labor, in consultation with the Secretary of Commerce, shall determine the occupational training or retraining needs of unemployed or underemployed individuals residing in redevelopment areas;

(2) all unemployed or underemployed individuals residing in redevelopment areas who can reasonably be expected to obtain employment as a result of such training may be referred and selected for training and shall be eligible for training allowances under this section: *Provided,* That the amount and duration of training allowances under this section shall in no event exceed the amount and duration of training allowances provided under section 2583(a) of this title;

(3) the Secretaries of Labor and Health, Education, and Welfare shall, each with respect to his functions under this section, prescribed jointly with the Secretary of Commerce such rules and regulations as may be necessary to carry out the purposes of this section; and

(4) no funds available under this section shall be apportioned to any State pursuant to section 2611 of this title, nor shall any matching funds be required.

(Pub. L. 87-415, title II, § 241, as added Pub. L. 89-15, § 9(a), Apr. 26, 1965, 79 Stat. 79.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in the text, was classified to chapter 28 of this title.

EFFECTIVE DATE

Section 9(c) of Pub. L. 89-15 provided that: "This section [which enacted this section] and the amendments made by it [which repealed sections 2513 and 2514 of this title and enacted provisions set out as a note thereunder] shall take effect on July 1, 1965."

PART D.—CORRECTIONAL INSTITUTIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2601, 2614 of this title.

§ 2610b. Experimental training programs for persons in correctional institutions.

Without regard to any other provision of this subchapter or section 2611 of this title, the Secretary of Labor shall, during the period ending June 30, 1970, develop and carry out experimental and demonstration programs of training and education for persons in correctional institutions who are in need thereof to obtain employment upon release. Arrangements for such education and training shall be made by the Secretary of Health, Education, and Welfare after consultation with the appropriate area manpower development and training advisory committee. Programs under this part shall be conducted through agreements with officials of Federal, State, and local correctional institutions. To the fullest extent practicable, the Secretary of Labor shall utilize the available services of other Federal departments and agencies. Programs under this part may include vocational education; special job development and placement activities; prevocational, basic,

and secondary education, and counseling, where appropriate; supportive and followup services and such other assistance as is deemed necessary. (Pub. L. 87–415, title II, § 251, as added Pub. L. 89–792, § 6(a), Nov. 7, 1966, 80 Stat. 1436, and amended Pub. L. 90–636, § 1(3), Oct. 24, 1968, 82 Stat. 1352.)

AMENDMENTS

1968—Pub. L. 90–636 substituted "1970" for "1969".

SHORT TITLE

Section 1 of Pub. L. 89–792 provided: "That this Act [which enacted this section and section 2603 of this title, amended sections 2572b, 2572c, 2582, 2583 2601, 2611 and 2614 of this title, and repealed section 2619 of this title] may be cited as the 'Manpower Development and Training Amendments of 1966'."

PART E.—WORK EXPERIENCE AND TRAINING PROGRAMS

§ 2610c. Programs for needy persons requiring work experience, special family or supportive services, or training.

(a) Requirements for programs.

The Secretary of Labor in cooperation with the Secretary of Health, Education, and Welfare shall provide, under this part, programs for needy persons who require work experience or special family and supportive services, as well as training, in order that they may be assisted to secure and hold regular employment in a competitive labor market. Such programs shall—

(1) provide for the selection of participants pursuant to procedures and criteria jointly prescribed by the Secretary of Labor and the Secretary of Health, Education, and Welfare;

(2) include pretraining services and basic maintenance, health, family and day care, counseling, and similar social services, and basic education, as provided by the Secretary of Health, Education, and Welfare pursuant to section 2922 of this title;

(3) provide through agreements with appropriate public or private nonprofit agencies, work experience to the extent required to assist participants in developing necessary work attitudes or to prepare them for work or training involving the acquisition of needed skills;

(4) provide testing, counseling, training either on or off the job (including classroom instruction where needed through appropriate arrangements agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare), to assist participants to develop their occupational potential, improve their occupational level and secure promotion or advancement;

(5) provide, through appropriate arrangements with employers, labor organizations, and other public and private agencies, for development where needed of additional employment opportunities for participants, for job referral and follow-up services required to assist participants in securing and retaining employment and securing possibilities for advancement; and

(6) provide, in accordance with the criteria prescribed in section 2572b of this title, relocation assistance to involuntarily unemployed individuals where the Secretary of Labor determines they cannot reasonably be expected to secure full-time employment in the community in which they reside.

(b) Priority programs; high training potential; upward mobility of participants.

In developing and approving programs under this part, the Secretary of Labor shall give priority to programs with a high-training potential and which afford the best prospects for contributing to the upward mobility of participants.

(c) Use and apportionment of funds.

Notwithstanding any other provision of this chapter, the provisions of section 503 of the Economic Opportunity Act of 1964, as amended, shall govern the use and apportionment among the several States of funds provided pursuant to such Act for the purpose of carrying out this part. (Pub. L. 87–415, title II, § 261, as added Pub. L. 89–794, title X, § 1001(c), Nov. 8, 1966, 80 Stat. 1475.)

REFERENCES IN TEXT

Section 503 of the Economic Opportunity Act of 1964, as amended, referred to in subsec. (c), is classified to section 2923 of this title.

Such Act, referred to in subsec. (c), means the Economic Opportunity Act of 1964, which is classified to chapter 34 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2740 of this title

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2573 of this title.

§ 2611. Apportionment of benefits; State administration of funds.

(a) For the purpose of effecting an equitable apportionment of Federal expenditures among the States in carrying out the programs authorized under parts A and B of subchapter II of this chapter, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall apportion 80 per centum of the funds available for such purposes in accordance with uniform standards and in arriving at such standards shall consider only the following factors: (1) the proportion which the labor force of a State bears to the total labor force of the United States, (2) the proportion which the unemployed in a State during the preceding calendar year bears to the total number of unemployed in the United States in the preceding calendar year, (3) the lack of appropriate full-time employment in the State, (4) the proportion which the insured unemployed within a State bears to the total number of insured employed within such State, and (5) the average weekly unemployment compensation benefits paid by the State, but in no event shall any State be apportioned less than $750,000; except that for the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands, such amount shall be $100,000 each. The remaining 20 per centum may be expended by the Secretary of Labor and the Secretary of Health, Education, and Welfare as they find necessary or appropriate to carry out the purposes of subchapter II of this chapter. The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to make reapportionments from time to time where the total amounts apportioned under

this section have not been fully obligated in a particular State, or where the State or appropriate agencies in the State have not entered into the necessary agreements, and the Secretaries find that any other State is in need of additional funds to carry out the programs authorized by this chapter: *Provided,* That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the ninth month of such fiscal year and only upon 15 days' prior notice to such State of the proposed reapportionment.

(b) Where the Secretaries of Labor and Health, Education, and Welfare have approved a plan submitted by a State council with whom they have an agreement under this chapter, which plan may be submitted under a comprehensive area manpower planning system or under such other planning requirements as the Secretaries may specify, such State agency shall have authority to approve (1) project applications for an amount not to exceed 20 per centum of the funds apportioned to such State under the first sentence of subsection (a) of this section without further project approval by the Federal Government; and (2) all other project applications which conform to such State plan, unless either of the Secretaries disapprove such project applications within 30 days following receipts of such applications. (Pub. L. 87–415, title III, § 301, Mar. 15, 1962, 76 Stat. 30; Pub. L. 89–15, § 10, Apr. 26, 1965, 79 Stat. 79; Pub. L. 89–792, § 7, Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90–636, §§ 8, 9, 10, Oct. 24, 1968, 82 Stat. 1354; Pub. L. 91–4, § 1 Mar. 19, 1969, 83 Stat. 6.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–4 extended apportioned benefits of not less than $100,000 to the Trust Territory of the Pacific Islands.

1968—Subsec. (a). Pub. L. 90–636, §§ 8—10, denominated existing provisions as subsec. (a) and, in subsec. (a) as so denominated, added provisions that States be apportioned no less than $750,000 and that the Virgin Islands, Guam, and American Samoa be apportioned no less than $100,000 each, substituted "ninth month" for "sixth month" and "15 days" for "30 days", and struck out provision that requirement of prior notice of proposed reapportionment be inapplicable with respect to reapportionments made during the last quarter of the fiscal year.

Subsec. (b). Pub. L. 90–636, § 10, added subsec. (b).

1966—Pub. L. 89–792, § 7, restricted applicability of section to programs authorized under parts A and B of subchapter II of this chapter directed the Secretary of Labor and the Secretary of Health, Education, and Welfare to apportion 80 percent of funds available among the States in lieu of making such apportionment of available funds as they may see fit, and permitted them to expend 20 percent of the funds as they find necessary to carry out the purposes of subchapter II.

1965—Pub. L. 89–15 added the proviso prescribing time limitation and notice requirement on reapportionment of funds.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 2 of Pub. L. 91–4 provided that: "The amendment made by the first section [amending subsec. (a) of this section] shall be effective as of October 24, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2610b of this title.

§ 2612. Maintenance of State effort.

No training program which is financed in whole or in part by the Federal Government under this chapter shall be approved unless the Secretary of Labor, if the program is authorized under part A of subchapter II of this chapter, or the Secretary of Health, Education, and Welfare, if the program is authorized under part B of subchapter II of this chapter, satisfies himself that neither the State nor the locality in which the training is carried out has reduced or is reducing its own level of expenditures for vocational education and training, including program operation under provisions of the Smith-Hughes Vocational Education Act, titles I, II, and III of the Vocational Education Act of 1946, and the Vocational Education Act of 1963, except for reductions unrelated to the provisions or purposes of this chapter. (Pub. L. 87–415, title III, § 302, Mar. 15, 1962, 76 Stat. 31; Pub. L. 89–15, § 11, Apr. 26, 1965, 79 Stat. 79.)

REFERENCES IN TEXT

The Smith-Hughes Vocational Education Act, referred to in the text, is classified to sections 11—15 and 16—28 of Title 20, Education.

Titles I, II, and III of the Vocational Education Act of 1946, referred to in the text, was classified to former sections 15*l*—15m, 15*o*—15q, 15aa—15jj, and 15aaa—15ggg of Title 20. See, now, section 1241 et seq. of Title 20.

The Vocational Education Act of 1963, referred to in the text, was classified to former sections 15aa, 15bb, 15aaa, and 35—35n of Title 20, Education. See, now, section 1241 et seq. of Title 20.

AMENDMENTS

1965—Pub. L. 89–15 included reference to the Vocational Education Act of 1963.

§ 2613. Utilization of available services and facilities of other Federal agencies and instrumentalities and of resources for skill development.

(a) In the performance of their functions under this chapter the Secretary of Labor and the Secretary of Health, Education, and Welfare, in order to avoid unnecessary expense and duplication of functions among Government agencies, shall use the available services or facilities of other agencies and instrumentalities of the Federal Government, under conditions specified in section 2616(a) of this title. Each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary of Labor and the Secretary of Health, Education, and Welfare and, to the extent permitted by law, to provide such services and facilities as either may request for his assistance in the performance of his functions under this chapter.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall carry out their responsibilities under this chapter through the maximum utilization of all possible resources for skill development available in industry, labor, public and private educational and training institutions, State, Federal, and local agencies, and other appropriate public and private organizations and facilities. (Pub. L. 87–415, title III, § 303, Mar. 15, 1962, 76 Stat. 31.)

§ 2614. Authorization of appropriations.

(a) For the purposes of carrying out subchapter I of this chapter, there are hereby authorized to be appropriated not in excess of $46,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

(b) For the purpose of carrying out parts A and B of subchapter II of this chapter, there are hereby authorized to be appropriated not in excess of $385,000,000 for the fiscal year ending June 30, 1966, and

for each fiscal year thereafter such amounts as may be necessary.

(c) For the purpose of carrying out part C of subchapter II of this chapter, there are hereby authorized to be appropriated not in excess of $22,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.

(d) For the purpose of carrying out part D of subchapter II of this chapter, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1969, and for the fiscal year ending June 30, 1970, such amounts as may be necessary.

(e) For the purpose of carrying out this subchapter, there are hereby authorized to be appropriated not in excess of $1,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary. (Pub. L. 87–415, title III, § 304, Mar. 15, 1962, 76 Stat. 31; Pub. L. 88–214, § 7, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, § 12, Apr. 26, 1965, 79 Stat. 80; Pub. L. 89–792, § 6(b), Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90–636, § 1(4), Oct. 24, 1968, 82 Stat. 1352.)

AMENDMENTS

1968—Subsec. (d). Pub. L. 90–636 substituted "1969" and "1970" for "1968" and "1969" respectively.

1966—Subsec. (d). Pub. L. 89–792, § 6(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 89–792, § 6(b), redesignated former subsec. (d) as (e).

1965—Subsec. (a). Pub. L. 89–15 increased subch. I appropriation authorization for fiscal year ending June 30, 1966 from $3,000,000 to $46,000,000 and authorized necessary amounts for subsequent fiscal years.

Subsec. (b). Pub. L. 89–15 increased subch. II, parts A and B, appropriation authorization for fiscal year ending June 30, 1966 from $281,000,000 to $385,000,000 and authorized necessary amounts for subsequent fiscal years.

Subsec. (c). Pub. L. 89–15 authorized subch. II, part C, appropriation of $22,000,000 for fiscal year ending June 30, 1966 and necessary amounts for subsequent fiscal years. Prior provisions authorized subch. III appropriation of $1,000,000 for fiscal year ending June 30, 1966, now incorporated in subsec. (d) of this section.

Subsec. (d). Pub. L. 89–15 authorized subch. III appropriation of $1,000,000 for fiscal year ending June 30, 1966, formerly incorporated in subsec. (c) of this section, and necessary amounts for subsequent fiscal years. Prior provisions authorized for planning and starting programs an appropriation of $5,000,000 for fiscal year ending June 30, 1962.

1963—Subsec. (a). Pub. L. 88–214, § 7(a), substituted "and each of the two succeeding fiscal years" for "and a like amount for the fiscal year ending June 30, 1965."

Subsec. (b). Pub. L. 88–214, § 7(b), increased the authorized appropriation for the fiscal year ending June 30, 1965, from $161,000,000 to $407,000,000 and authorized $281,000,000 for the fiscal year ending June 30, 1966.

Subsec. (c). Pub. L. 88–214, § 7(c), authorized an appropriation of $1,000,000 for the fiscal year ending June 30, 1966.

§ 2615. Limitations on use of appropriated funds.

(a) Funds appropriated under the authorization of this chapter may be transferred, with the approval of the Director of the Office of Management and Budget, between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(b) Any equipment and teaching aids purchased by a State or local education agency with funds appropriated to carry out the provisions of part B of subchapter II of this chapter shall become the property of the State.

(c) No portion of the funds to be used under part B of subchapter II of this chapter shall be appropriated directly or indirectly to the purchase, erection, or repair of any building except for minor remodeling of a public building necessary to make it suitable for use in training under such part.

(d) Funds appropriated under this chapter shall remain available for one fiscal year beyond that in which appropriated.

(e) The costs of all training programs approved in any fiscal year, including the total cost of training allowances for such programs, may be paid from funds appropriated for such purposes for that fiscal year; and the amount of the Federal payment shall be computed on the basis of the per centum requirement in effect at the time such programs are approved: *Provided,* That funds appropriated for the fiscal year ending June 30, 1966, may be expended for training programs approved under this chapter prior to July 1, 1965. (Pub. L. 87–415, title III, § 305, Mar. 15, 1962, 76 Stat. 32; Pub. L. 88–214, § 8, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, § 13, Apr. 26, 1965, 79 Stat. 80; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

AMENDMENTS

1965—Subsec. (e). Pub. L. 89–15 added subsec. (e).

1963—Subsec. (b). Pub. L. 88–214 eliminated "vocational" preceding "education agency."

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 2616. Authority to contract, establish procedures, and make payments; limitation on authority.

(a) The Secretary of Labor and the Secretary of Health, Education, and Welfare may make such contracts or agreements, establish such procedures, including (subject to such policies, rules, and regulations as they may prescribe) the approval of any program under section 2582 of this title, the cost of which does not exceed $75,000, and make such payments, either in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this chapter, as they deem necessary to carry out the provisions of this chapter.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall not use any authority conferred by this chapter to assist in relocating establishments from one area to another. Such limitation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is

being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations. (Pub. L. 87–415, title III, § 306, Mar. 15, 1962, 76 Stat. 32; Pub. L. 89–15, § 14, Apr. 26, 1965, 79 Stat. 80.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89–15 authorized establishment of procedures for approval of training programs the cost of which is not more than $75,000.

§ 2617. Membership in labor organization.

The selection of persons for training under this chapter and for placement of such persons shall not be contingent upon such person's membership or nonmembership in a labor organization. (Pub. L. 87–415, title III, § 307, Mar. 15, 1962, 76 Stat. 32.)

§ 2618. Definition of "State".

For the purposes of this chapter, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. (Pub. L. 87–415, title III, § 308, Mar. 15, 1962, 76 Stat. 32; Pub. L. 90–636, § 5(c), Oct. 24, 1968, 82 Stat. 1353.)

AMENDMENTS

1968—Pub. L. 90–636 inserted references to American Samoa and the Trust Territory of the Pacific Islands.

§ 2619. Training and technical assistance.

(a) In carrying out the responsibilities under this chapter, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall provide, directly or through grants, contracts, or other arrangements, training for specialized or other personnel and technical assistance which is needed in connection with the programs established under this chapter or which otherwise pertains to the purposes of this chapter. Upon request, the Secretary may make special assignments of personnel to public or private agencies, institutions, or employers to carry out the purposes of this section; but no such special assignments shall be for the period of more than two years.

(b) Two percentum of the sums appropriated in any fiscal year to carry out subchapters I, II, and III of this chapter shall be available only for training and assistance authorized by this section. (Pub. L. 87–415, title III, § 309, as added Pub. L. 90–636, § 11, Oct. 24, 1968, 82 Stat. 1354.)

PRIOR PROVISIONS

A prior section 309 of Pub. L. 87–415, title III, Mar. 15, 1962, 76 Stat. 32; Pub. L. 88–214, § 9, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15 § 15, Apr. 26, 1965, 79 Stat. 80, requiring the Secretaries of Labor and Health, Education, and Welfare to make an annual report to Congress evaluating the programs under sections 2571–2574 and 2581–2588 of this title, and sections 2601 and 2602 of this title respectively, was repealed by Pub. L. 89–792, § 8(a), Nov. 7, 1966, 80 Stat. 1437. The substance of the provisions of subsec. (b) of such former section is now covered by section 2603 of this title.

§ 2620. Termination of authority.

(a) All authority conferred under subchapter II of this chapter shall terminate at the close of June 30, 1972.

(b) Notwithstanding the foregoing, the termination of subchapter II of this chapter shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment or other obligation entered into prior to the date of such termination: *Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under subchapter II of this chapter after December 30, 1972. (Pub. L. 87–415, title III, § 310, Mar. 15, 1962, 76 Stat. 33; Pub. L. 88–214, § 10, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, § 16, Apr. 26, 1965, 79 Stat. 80; Pub. L. 90–636, § 1(5), Oct. 24, 1968, 82 Stat. 1352.)

AMENDMENTS

1968—Subsecs. (a), (b). Pub. L. 90–636 substituted "1972" for "1969" wherever appearing.

1965—Subsec. (a). Pub. L. 89–15 substituted "1969" for "1966."

Subsec. (b). Pub. L. 89–15 substituted "1969" for "1966."

SUBCHAPTER IV.—SEASONAL UNEMPLOYMENT IN THE CONSTRUCTION INDUSTRY

§ 2621. Congressional findings and declaration of purpose.

(a) The Congress finds that seasonal unemployment represents a substantial portion of the unemployment in the construction industry, and a significant portion of all unemployment, that seasonal unemployment results in economic hardship for construction employees, employers, and for the consumers of construction services; that such unemployment constitutes unnecessary and wasteful misuse of the Nation's manpower resources; that stabilization of construction operations may be expected to have a correspondingly stabilizing effect on construction employment and costs; and that it is highly desirable from the standpoint of the economy as a whole, and manpower policy in particular that positive and expeditious action be taken by public authorities and private groups to regularize construction employment.

(b) It is therefore the purpose of this subchapter to provide for the conduct of a study of seasonality in the construction industry, with special attention to its implications for national manpower policy. (Pub. L. 87–415, title IV, § 401, as added Pub. L. 90–636, § 12, Oct. 24, 1968, 82 Stat. 1354.)

§ 2622. Report to President and Congress by December 31, 1969.

CODIFICATION

Section, Pub. L. 87–415, title IV, § 402, as added Pub. L. 90–636, § 12, Oct. 24, 1968, 82 Stat. 1355, directed the Secretary of Labor together with the Secretary of Commerce to study the question of the means necessary to stabilize employment in the construction industry and to diminish seasonal changes and to submit their report on such study to the President and the Congress not later than Dec. 31, 1969.

§ 2623. Consultation with Federal officials on reduction of seasonal unemployment.

Matters which the Secretary of Labor and the Secretary of Commerce, after consultation with other appropriate officials of Federal agencies, including, but not necessarily limited to, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Transportation, the Administrator of the General Services Administration, and the Director of the Office of Management and Budget, and with engineers, with other appropriate officials of Federal agencies, including, but

not necessarily limited to, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Transportation, the Administrator of the General Services Administration, and the Director of the Office of Management and Budget, and with engineers, architects, and representatives of labor and management in the construction industry, shall consider, shall include, but not necessarily be limited to, the extent to which seasonal unemployment in the construction industry can be reduced without substantial increases in construction costs by means such as—

(a) the application of modern techniques to reduce the influence of weather on construction activity;

(b) the resolution of technical problems which have not been solved by existing research and development activities;

(c) possible changes in contract procedures in allocation cycles; and

(d) improved planning and scheduling of construction projects.

(Pub. L. 87–415, title IV, § 403, as added Pub. L. 90–636, § 12, Oct. 24, 1968, 82 Stat. 1355, and amended 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2625 of this title.

SUBCHAPTER V.—SUPPLEMENTARY STATE PROGRAMS

§ 2624. Congressional declaration of purpose.

It is the purpose of this subchapter to provide a method whereby a State may utilize Federal matching funds, together with its own funds for the purposes of supplementing, coordinating and improving the effectiveness of, or correcting imbalances among, the services available from all Federal manpower and related programs seeking to improve the ability of disadvantaged persons to move into productive employment. (Pub. L. 87–415, title V, § 501, as added Pub. L. 90–636, § 13, Oct. 24, 1968, 82 Stat. 1355.)

§ 2625. Authorization for grants.

The Secretary of Labor (hereinafter in this subchapter referred to as the Secretary) is authorized to grant to any State which meets the requirements of section 2623 of this title an amount, for fiscal years 1969 and 1970, not to exceed 75 per centum of the cost of the supplemental efforts and activities undertaken by a State pursuant to the provisions of this subchapter. (Pub. L. 87–415, title V, § 502, as added Pub. L. 90–636, § 13, Oct. 24, 1968, 82 Stat. 1356.)

§ 2626. Applications and conditions.

(a) Any State which desires a grant under this subchapter shall make application to the Secretary at such time, in such manner, and containing or accompanied by such information as he deems reasonably necessary.

(b) No grant may be made under the provisions of this subchapter unless the Secretary finds that—

(1) after consultation with said State, the effectiveness of Federal manpower and related programs seeking to move disadvantaged persons into productive employment within such State can be facilitated or improved by additional State efforts and activities; and

(2) such application (A) describes how such additional efforts and activities will be undertaken in support of existing Federal programs, (B) demonstrates that such efforts and activities are not inconsistent with such State's cooperative area manpower planning system plant, (C) demonstrates that such efforts and activities will contribute to carrying out the purposes of this subchapter, and (D) provides assurances that the State will pay the non-Federal share of the cost of such efforts and activities under this subchapter.

(Pub. L. 87–415, title V, § 503, as added Pub. L. 90–636, § 13, Oct. 24, 1968, 82 Stat 1356.)

§ 2627. Rules and regulations.

The Secretary may prescribe such rules and regulations under this subchapter as he deems necessary. (Pub. L. 87–415, title V, § 504, as added Pub. L. 90–636, § 13, Oct. 24, 1968, 82 Stat. 1356.)

§ 2628. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter. (Pub. L. 87–415, title V, § 505, as added Pub. L. 90–636, § 13, Oct. 24, 1968, 82 Stat. 1356.)

Chapter 31.—PUBLIC WORKS ACCELERATION PROGRAM

Sec.
2641. Congressional declaration of purpose.
2642. Acceleration of public works.
(a) Eligible areas.
(b) Authority to initiate and accelerate projects; allocation of funds.
(c) Grants-in-aid; law governing; amount of Federal contributions.
(d) Authorization of appropriations.
(e) Rules and regulations; considerations.
(f) Restrictions on allocated funds.
(g) Limit on allocations available for projects in any one State.
(h) Criteria determining substantial unemployment.
2643. Increase of State or local expenditures.

§ 2641. Congressional declaration of purpose.

(a) The Congress finds that (1) certain communities and areas in the Nation are presently burdened by substantial unemployment and underemployment and have failed to share fully in the economic gains of the recovery from the recession of 1960–1961 and (2) action by the Federal Government is necessary, both to provide immediate useful work for the unemployed and underemployed in these

communities and to help these communities, through improvement of their facilities, to become more conducive to industrial development and better places in which to live and work. The Nation has a backlog of needed public projects, and an acceleration of these projects now will not only increase employment at a time when jobs are urgently required but will also meet longstanding public needs, improve community services, and enhance the health and welfare of citizens of the Nation.

(b) The Congress further finds that Federal assistance to stimulate public works investment in order to increase employment opportunities is most urgently needed in those areas, both urban and rural, which qualify as redevelopment areas because they suffer from persistent and chronic unemployment and economic underdevelopment, as well as in other areas which have suffered from substantial unemployment for a period of at least twelve months. (Pub. L. 87-658, § 2, Sept. 14, 1962, 76 Stat. 542.)

SHORT TITLE

Section 1 of Pub. L. 87-658 provided: "That this Act [enacting this chapter and amending section 462 of Title 40, Public Buildings, Property, and Works, and section 1492 of this title] may be cited as the 'Public Works Acceleration Act'."

§ 2642. Acceleration of public works.

(a) Eligible areas.

For the purposes of this section the term "eligible area" means—

(1) those areas which the Secretary of Labor designates each month as having been areas of substantial unemployment for at least nine of the preceding twelve months; and

(2) those areas which are designated by the Secretary of Commerce under subsections (a) and (b) of section 2504 of this title as "redevelopment areas".

(b) Authority to initiate and accelerate projects; allocation of funds.

The President is authorized to initiate and accelerate in eligible areas those Federal public works projects which have been authorized by Congress, and those public works projects of States and local governments for which Federal financial assistance is authorized under provisions of law other than this chapter, by allocating funds appropriated to carry out this section—

(1) to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the construction of Federal public works projects, and

(2) to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of laws authorizing Federal financial assistance to public works projects of States and local governments.

(c) Grants-in-aid; law governing; amount of Federal contributions.

All grants-in-aid made from allocations made by the President under this section shall be made by the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such grants, and, except as otherwise provided in this subsection, shall be made in accordance with all of the provisions of such law except (1) provisions requiring allocation of funds among the States, and (2) limitations upon the total amount of such grants for any period. Notwithstanding any provision of such law requiring the Federal contribution to the State or local government involved to be less than a fixed portion of the cost of a project, grants-in-aid may be made under authority of this section which bring the total of all Federal contributions to such project up to 50 per centum of the cost of such project, or up to 75 per centum of the cost of such project if the State or local government does not have economic and financial capacity to assume all of the additional finanial obligations required.

(d) Authorization of appropriations.

There is authorized to be appropriated not to exceed $900,000,000 to be allocated by the President in accordance with subsection (b) of this section, except that not less than $300,000,000 shall be allocated for public works projects in areas designated by the Secretary of Commerce as redevelopment areas under subsection (b) of section 2504 of this title.

(e) Rules and regulations; considerations.

The President shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the President shall consider among other relevant factors (1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment and (2) the income levels of families and the extent of underemployment in eligible areas.

(f) Restrictions on allocated funds.

Funds allocated by the President under this section shall be available only for projects—

(1) which can be initiated or accelerated within a reasonably short period of time;

(2) which will meet an essential public need;

(3) a substantial portion of which can be completed within twelve months after initiation or acceleration;

(4) which will contribute significantly to the reduction of local unemployment;

(5) which are not inconsistent with locally approved comprehensive plans for the jurisdiction affected, wherever such plans exist.

(g) Limit on allocations available for projects in any one State.

Not more than 10 per centum of all amounts allocated by the President under this section shall be made available for public works projects within any one State.

(h) Criteria determining substantial unemployment.

The criteria to be used by the Secretary of Labor in determining areas of substantial unemployment for the purposes of paragraph (1) of subsection (a) of this section shall be the criteria established in section 6.3 of title 29 of the Code of Federal Regulations as in effect May 1, 1962. (Pub. L. 87-658, § 3, Sept. 14, 1962, 76 Stat. 542.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was, in the original, "this Act", meaning Pub. L. 87-658, which en-

acted this chapter and amended section 1492 of this title and section 462 of Title 40, Public Buildings, Property and Works.

EX. ORD. NO. 11049. IMPLEMENTATION OF CHAPTER

Ex. Ord. No. 11049, Sept. 14, 1962, 27 F.R. 9203, provided:

By virtue of the authority vested in me by the Public Works Acceleration Act, approved September 14, 1962 (Public Law 87-658) [this chapter], hereinafter referred to as the Act, and by Section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Commerce shall assist the President in the carrying out of the Public Works Acceleration Act and to that end he shall (a) receive and coordinate proposals from Federal agencies for allocations from funds appropriated pursuant to Section 3 of the Act [this section], and (b) make recommendations to the President for the allocation of such funds. The Secretary shall maintain such records of progress and accomplishments and shall recommend such actions by the President as are necessary to assure that Federal responsibilities under the Act are carried out expeditiously.

SEC. 2. There is hereby delegated to the Secretary of Commerce the authority vested in the President by Section 3(e) of the Act [subsec. (e) of this section] to prescribe rules, regulations, and procedures to carry out Section 3 of the Act [this section]. In prescribing such rules, regulations, and procedures, the Secretary shall include therein provisions to assure that (a) preference in employment on public works undertaken pursuant to the Act shall, insofar as practicable, be given to qualified local labor, (b) funds allocated under the Act shall be supplementary to other Federal funds which otherwise would have been expended in eligible areas as defined in the Act, and (c) appropriate State and local agencies shall direct requests for Federal assistance to the Federal agency administering the law authorizing such assistance.

SEC. 3. Federal departments and agencies receiving allocations of funds appropriated pursuant to the Act shall make such regular reports and provide such other information to the Secretary of Commerce as he deems necessary in order to carry out his responsibilities under this order, and shall cooperate with the Secretary to assure that Federal funds are expended in accordance with the requirements of the Act and of the rules, regulations, and procedures prescribed pursuant to the Act.

JOHN F. KENNEDY

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 2643. Increase of State or local expenditures.

(a) No part of any allocation made by the President under this chapter shall be made available during any fiscal year to any State or local government for any public works project, unless the proposed or planned total expenditure (exclusive of Federal funds) of such State or local government during such fiscal year for all its capital improvement projects is increased by an amount approximately equal to the non-Federal funds required to be made available for such public works project.

(b) No part of any allocation made by the President under this chapter shall be made available for any planning or construction, directly or indirectly, of any school or other educational facility. (Pub. L. 87-658, § 4, Sept. 14, 1962, 76 Stat. 543.)

REFERENCES IN TEXT

This chapter, referred to in the text, was, in the original, "this Act", meaning Pub. L. 87-658, which enacted this chapter and amended section 1492 of this title and section 462 of Title 40, Public Buildings, Property and Works.

Chapter 32.—THIRD PARTY LIABILITY FOR HOSPITAL AND MEDICAL CARE

Sec.
2651. Recovery by United States.
(a) Conditions; exceptions; persons liable; amount of recovery; subrogation; assignment.
(b) Enforcement procedure; intervention; joinder of parties; State or Federal court proceedings.
(c) Veterans' exception.
2652. Regulations.
(a) Determination and establishment of reasonable value of care and treatment.
(b) Settlement, release and waiver of claims.
(c) Damages recoverable for personal injury unaffected.
2653. Limitation or repeal of other provisions for recovery of hospital and medical care costs.

§ 2651. Recovery by United States.

(a) Conditions; exceptions; persons liable; amount of recovery; subrogation; assignment.

In any case in which the United States is authorized or required by law to furnish hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) to a person who is injured or suffers a disease, after the effective date of this Act, under circumstances creating a tort liability upon some third person (other than or in addition to the United States and except employers of seamen treated under the provisions of section 249 of this title) to pay damages therefor, the United States shall have a right to recover from said third person the reasonable value of the care and treatment so furnished or to be furnished and shall, as to this right be subrogated to any right or claim that the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the reasonable value of the care and treatment so furnished or to be furnished. The head of the department or agency of the United States furnishing such care or treatment may also require the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors, as appropriate, to assign his claim or cause of action against the third person to the extent of that right or claim.

(b) Enforcement procedure; intervention; joinder of parties; State or Federal court proceedings.

The United States may, to enforce such right, (1) intervene or join in any action or proceeding brought by the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors, against the third person who is liable for the injury or disease; or (2) if such action or proceeding is not commenced within six months after the first day in which care and treatment is furnished by the United States in connection with the injury or disease involved, institute and prosecute legal proceedings against the third person who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured person, his guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors.

(c) Veterans' exception.

The provisions of this section shall not apply with respect to hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished by the Veterans' Administration to an elegible veteran for a service-connected disability under the provisions of chapter 17 of Title 38. (Pub. L. 87-693, § 1, Sept. 25, 1962, 76 Stat. 593.)

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a), as the first day of the fourth month following September, 1962, see effective date note under this section.

EFFECTIVE DATE

Section 4 of Pub. L. 87-693 provided that: "This Act [enacting this chapter] becomes effective on the first day of the fourth month following the month [September, 1962] in which enacted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2652, 2653 of this title.

§ 2652. Regulations.

(a) Determination and establishment of reasonable value of care and treatment.

The President may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the reasonable value of the hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished.

(b) Settlement, release and waiver of claims.

To the extent prescribed by regulations under subsection (a) of this section, the head of the department or agency of the United States concerned may (1) compromise, or settle and execute a release of, any claim which the United States has by virtue of the right established by section 2651 of this title; or (2) waive any such claim, in whole or in part, for the convenience of the Government, or if he determines that collection would result in undue hardship upon the person who suffered the injury or disease resulting in care or treatment described in section 2651 of this title.

(c) Damages recoverable for personal injury unaffected.

No action taken by the United States in connection with the rights afforded under this legislation shall operate to deny to the injured person the recovery for that portion of his damage not covered hereunder. (Pub. L. 87-693, § 2, Sept. 25, 1962, 76 Stat. 593.)

EX. ORD. NO. 11060. DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS

Ex. Ord. No. 11060, Nov. 7, 1962, 27 F.R. 10925, provided: Under and by virtue of the authority vested in me by Title 3 of the United States Code and by Section 2(a) of the Act of September 25, 1962 (Public Law 87-693) [subsec. (a) of this section], it is hereby ordered as follows:

SECTION 1. The Director of the Bureau of the Budget shall, for the purposes of the Act of September 25, 1962, [this chapter], from time to time, determine and establish rates that represent the reasonable value of hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished.

SEC. 2. Except as provided in Section 1 of this order, the Attorney General shall prescribe regulations to carry out the purposes of the Act of September 25, 1962 [this chapter].

JOHN F. KENNEDY

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 2653. Limitation or repeal of other provisions for recovery of hospital and medical care costs.

This chapter does not limit or repeal any other provision of law providing for recovery by the United States of the cost of care and treatment described in section 2651 of this title. (Pub. L. 87-693, § 3, Sept. 25, 1962, 76 Stat. 594.)

Chapter 33.—SERVICES AND FACILITIES FOR THE MENTALLY RETARDED AND PERSONS WITH OTHER DEVELOPMENTAL DISABILITIES, AND MENTAL HEALTH CENTERS

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SUBCHAPTER V.—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

2698 to 2698b. Repealed.

EX. ORD. NO. 11280. PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Ex Ord. No. 11280, May 11, 1966, 31 F.R. 7167, provided:

WHEREAS the Maternal and Child Health and Mental Retardation Planning Amendments of 1963 [see short title note under section 1391 of this title] and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 273; 282) [see short title note under section 2661 of this title] have established a firm statutory basis for combatting mental retardation; and

WHEREAS the mental retardation activities of Federal, State, and local government agencies and foundations and other prviate organizations are expanding rapidly and require careful review in order that maximum benefits may be achieved; and

WHEREAS there is a continuing need to mobilize the support of the general public and of specialized professional groups for mental retardation activities; and

WHEREAS re-evaluation of existing programs to determine their adequacy and consideration of proposals for new mental retardation activities is necessary:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Committee established.* There is hereby established the President's Committee on Mental Retardation (hereinafter referred to as the Committee).

SEC. 2. *Composition of Committee.* The Committee shall be composed of the following members:

(1) The Secretary of Health, Education, and Welfare, who shall be the Chairman of the Committee.

(2) The Secretary of Labor.

(3) The Director of the Office of Economic Opportunity.

(4) Not more than twenty-one other members who shall be appointed by the President from public or private life and may include specialists in medicine and other healing arts, human development, special education and employment problems, and members of foundations and other private organizations active in the mental retardation field. Except as the President may from time to time otherwise direct, appointees under this paragraph shall have terms as follows: (A) Of the members first appointed hereunder, the terms of seven shall expire on the first anniversary of the date of this Order, the terms of seven shall expire on the second anniversary, and the terms of seven shall expire on the third anniversary. (B) The term of each succeeding appointment shall expire on the third anniversary of the expiration of the predecessor term, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term.

SEC. 3. *Functions of the Committee.* (a) The Committee shall provide such advice and assistance in the area of mental retardation as the President may from time to time request, including assistance with respect to:

(1) evaluation of the adequacy of the national effort to combat mental retardation;

(2) coordination of activities of Federal agencies in the mental retardation field;

(3) provision of adequate liaison between such Federal activities and related activities of State and local governments, foundations, and other private organizations; and

(4) development of such information, designed for dissemination to the general public, as will tend to reduce the incidence of mental retardation and ameliorate its effects.

(b) The Committee shall mobilize support for mental retardation activities by meeting with, and providing information for, appropriate professional organizations and groups broadly representative of the general public.

(c) The Committee shall make such reports or recommendations to the President concerning mental retardation as he may require or the Committee may deem appropriate. Such reports shall be made at least once annually.

SEC. 4. *Cooperation with the Committee.* All who may be in a position to do so are requested to furnish the Committee information pertinent to its work and otherwise to facilitate the work of the Committee.

SEC. 5. *Administrative arrangements.* (a) As may be necessary, each Federal agency which is represented on the Committee shall furnish assistance to the Committee in accordance with the provisions of Section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691), or as otherwise permitted by law. The Committee may have an Executive Director who shall be designated and compensated in consonance with law. The Department of Health, Education, and Welfare is hereby designated as the agency which principally shall provide the Committee with necessary administrative services and facilities.

(b) Each member of the Committee, except any member who then receives other compensation from the United States, shall receive compensation for each day he or she is engaged upon the work of the Committee, as authorized by law (5 U.S.C. 55a), and shall also be entitled to receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) [now section 5703 of Title 5, Government Organization and Employees] for persons in the Government service employed intermittently.

SEC. 6. *Construction.* Nothing in this Order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or as abrogating or restricting any such function in any manner.

LYNDON B. JOHNSON.

SUBCHAPTER I.—UNIVERSITY - AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

CROSS REFERENCES

Public Health Service mental retardation research facilities, see section 295 et seq. of this title.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2672, 2673 of this title.

§ 2661. Authorization of appropriations.

(a) For the purpose of assisting in the construction (and the planning for the construction) of facilities which will aid in demonstrating provision of specialized services for the diagnosis and treatment, education, training, or care of the persons with developmental disabilities or in the interdisciplinary training of physicians and other specialized personnel needed for research, diagnosis and treatment, education, training, or care of the persons with developmental disabilities, including research incidental or related to any of the foregoing activities, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1964, $7,500,000 for the fiscal year ending June 30, 1965, $10,000,000 each for the fiscal year ending June 30, 1966, the fiscal year ending June 30, 1967, and the fiscal year ending June 30, 1968, and $20,000,000 for each of the next five fiscal years through the fiscal year ending June 30, 1973. Except as provided in subsection (b) of this section, the sums so appropriated shall be used for project grants for construction of public and other nonprofit facilities for persons with developmental disabilities which are associated with a college or university.

(b) (1) Of the sums appropriated pursuant to subsection (a) of this section for any fiscal year, beginning with the fiscal year ending June 30, 1968, an amount equal to 2 per centum thereof (or such smaller amount as the Secretary may determine to be appropriate) shall be available to the Secretary for the purpose of making grants to cover not to exceed 75 per centum of the costs of the planning of projects with respect to the construction of which applications for grants may be made under this subchapter. Not more than $25,000 shall be granted under this subsection with respect to any project.

(2) Planning grants under this subsection shall be made by the Secretary to such applicants and upon such terms and conditions as he shall by regulations prescribe. Payment of grants under this subsection shall be made in advance or by way of reimbursement, as the Secretary may determine.

(3) Whenever, in the succeeding provisions of this subchapter, the term "grant", "grants", or "funds" is employed, such term shall be deemed not to include any grant under this subsection or any of the funds of any such grant. (Pub. L. 88-164, title I, § 121, Oct. 31, 1963, 77 Stat. 284; Pub. L. 90-170, § 2 (a), (b), (d), Dec. 4, 1967, 81 Stat. 527; Pub. L. 91-517, title II, § 201(a), (b), Oct. 30, 1970, 84 Stat. 1325.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-517 struck out provisions relating to clinical facilities providing a full range of inpatient and outpatient services, and substituted "interdisciplinary training" for "clinical training", "for each of the next five fiscal years through the fiscal year ending June 30, 1973" for "each for the fiscal year ending June 30, 1969, and the fiscal year ending June 30, 1970", and "persons with developmental disabilities" for "the mentally retarded" in three places.

1967—Subsec. (a). Pub. L. 90-170, § 2 (a), (b), (d) (1) (A)—(C), denominated existing provision as subsec. (a) and as so denominated added "(and the planning for the construction)" following "For the purpose of assisting in the construction", "(which, for purposes of this subchapter includes other neurological handicapping conditions found by the Secretary to be sufficiently related to mental retardation to warrant inclusion in this subchapter)" following "services for the mentally retarded", "including research incidental or related to any of the foregoing activities" preceding "there are authorized to be appropriated", provided for appropriations of $10,000,000 for the fiscal year ending June 30, 1968, and $20,000,000 each for the fiscal years ending June 30, 1969 and June 30, 1970, and substituted "Except as provided in subsection (b) of this section, the sums" for "The sums".

Subsec. (b). Pub. L. 90-170, § 2(d) (1) (D), added subsec. (b).

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90-170 provided: "That this Act [which amended this section and sections 2665, 2671, 2672, 2674 of this title and section 617 of Title 20, and enacted sections 2678—2678d and 2698-2698b of this title] may be cited as the 'Mental Retardation Amendments of 1967'."

SHORT TITLE

Section 1 of Pub. L. 88-164 provided: "That this Act [enacting this chapter, sections 295—295e of this title and section 618 of Title 20, amending section 291k of this title and sections 611—613, 617, 676 of Title 20, and enacting provisions set out as notes under section 291k of this title and section 611 of Title 20] may be cited as the 'Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963'."

Section 100 of Pub. L. 88-164, as amended by section 207(a) of Pub. L. 91-517, provided that: "This title [enacting subchapters I and II of this chapter and sections 295—295e of this title] may be cited as the 'Developmental Disabilities Services and Facilities Construction Act'." Prior to the amendment of section 100 of Pub. L. 88-164 by Pub. L. 91-517 this title was cited as the Mental Retardation Facilities Construction Act.

AVAILABILITY OF APPROPRIATIONS

Funds appropriated for any fiscal year ending prior to June 30, 1973, to carry out any program for which appropriations are authorized by Pub. L. 88-164, this chapter, to remain available for obligation and expenditure until the end of such fiscal year unless enacted after June 30, 1970, in express limitation of such availability, see section 601 of Pub. L. 91-296, Title VI, June 30, 1970, 84 Stat. 353, set out as a note under section 201 of this title.

§ 2661a. Demonstration and training grants; appropriations.

(a) For the purposes of assisting institutions of higher education to contribute more effectively to the solution of complex health, education, and social problems of children and adults suffering from developmental disabilities, the Secretary may, in accordance with the provisions of this subchapter, make grants to cover costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, including established disciplines as well as new kinds of training to meet critical shortages in the care of persons with developmental disabilities.

(b) For the purpose of making grants under this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971; $17,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 3, 1973. (Pub. L. 88-164, title I, § 122 as added Pub. L. 91-517, title II, § 202, Oct. 30, 1970, 84 Stat. 1326.)

§ 2662. Applications; approval by Secretary.

(a) Applications for grants under this subchapter with respect to the construction of any facility may be approved by the Secretary only if the application

contains or is supported by reasonable assurances that—

(1) the facility will be associated, to the extent prescribed in regulations of the Secretary, with a college or university hospital (including affiliated hospitals), or with such other part of a college or university as the Secretary may find appropriate in the light of the purposes of this subchapter;

(2) the plans and specifications are in accord with regulations prescribed by the Secretary under section 2677b(d) of this title;

(3) title to the site for the project is or will be vested in one or more of the agencies or institutions filing the application or in a public or other nonprofit agency or institution which is to operate the facility;

(4) adequate financial support will be available for construction of the project and for its maintenance and operation when completed; and

(5) all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40.

(b) Applications for demonstration and training grants under this part may be approved by the Secretary only if the applicant is a college or university operating a facility of the type described in section 2661 of this title, or is a public or nonprofit private agency or organization operating such a facility. In considering applications for such grants, the Secretary shall give priority to any application which shows that the applicant has made arrangements, in accordance with regulations of the Secretary, for a junior college to participate in the programs for which the application is made. (Pub. L. 88-164, title I, § 123, formerly § 122, Oct. 31, 1963, 77 Stat. 284, renumbered and amended Pub. L. 91-517, title II, §§ 202, 203, Oct. 30, 1970, 84 Stat. 1326.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(5), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176), referred to in subsec. (5), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-517, § 203, designated existing provisions as subsec. (a), and, as so designated added "the construction of" before "any facility" in the first sentence, and substituted "section 2677b(d)" for "section 2673(3)".

Subsec. (b). Pub. L. 91-517, § 203, added subsec. (b).

§ 2663. Amount of grants.

(a) Maximum payments.

The total of the grants with respect to any project under this subchapter may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary.

(b) Advances or reimbursement; conditions.

Payments of grants under this subchapter shall be made in advance or by way of reimbursement, and on such conditions as the Secretary may determine. (Pub. L. 88-164, title I, § 124, formerly § 123, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91-517, title II, §§ 202, 204, Oct. 30, 1970, 84 Stat. 1326.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-517, § 204, struck out references to cost of construction and construction of a facility.

Subsec. (b). Pub. L. 91-517, § 204, struck out reference to payments in such installments consistent with construction progress.

§ 2664. Recovery of expenditures under certain conditions.

If any facility with respect to which construction funds have been paid under this subchapter shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not qualified to file an application under this subchapter, or

(2) cease to be a public or other nonprofit facility for persons with developmental disabilities, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for the persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. (Pub. L. 88-164, title I, § 125, formerly § 124, Oct. 31, 1963, 77 Stat. 285, renumbered and amended Pub. L. 91-517, title II, §§ 201(c), 202, 205, Oct. 30, 1970, 84 Stat. 1326.)

AMENDMENTS

1970—Pub. L. 91-517, §§ 201(c), 205, substituted "persons with developmental disabilities" for "the mentally retarded" in three places, and added reference to construction funds as the type of funds referred to in this section.

§ 2665. Nonduplication of grants.

No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1963, and ending June 30, 1970, for construction of any facility for persons with developmental disabilities described in this subchapter, unless the Secretary determines that funds are not available under this subchapter to make a grant for the construction of such facility. (Pub. L. 88-164, title I, § 126, formerly § 125, Oct. 31, 1963, 77 Stat. 285, Pub. L. 90-170, § 2(c), Dec. 4, 1967, 81 Stat. 527, renumbered and amended Pub. L. 91-517, title II, §§ 201(c), 202, Oct 30, 1970, 84 Stat. 1326.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in the text, is classified to chapter 6A of this title.

AMENDMENTS

1970—Pub. L. 91–517, § 201(c), substituted "persons with developmental disabilities" for "the mentally retarded".

1967—Pub. L. 90–170 substituted the fiscal year ending June 30, 1970, for the fiscal year ending June 30, 1967, as the end of the period during which duplication of grants for construction is prohibited.

§ 2666. Maintenance of effort.

Applications for grants under this subchapter may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the grants will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which would (except for such grant) be available to the applicant, but that such grants will be used to supplement, and, to the extent practicable, to increase the level of such funds. (Pub. L. 88–164, title I, § 127, as added Pub. L. 91–517, title II, § 206, Oct. 30, 1970, 84 Stat. 1326.)

SUBCHAPTER II.—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2682, 2692 of this title.

§ 2670. Declaration of purpose.

The purpose of this subchapter is to authorize—

(a) grants to assist the several States in developing and implementing a comprehensive and continuing plan for meeting the current and future needs for services to persons with developmental disabilities;

(b) grants to assist public or nonprofit private agencies in the construction of faciilties for the provision of services to persons with developmental disabilities, including facilities for any of the purposes stated in this section;

(c) grants for provision of services to persons with developmental disabilities, including costs of operation, staffing, and maintenance of facilities for persons with developmental disabilities;

(d) grants for State or local planning, administration, or technical assistance relating to services and facilities for persons with developmental disabilities;

(e) grants for training of specialized personnel needed for the provision of services for persons with developmental disabilities, or research related thereto; and

(f) grants for developing or demonstrating new or improved techniques for the provision of services for persons with developmental disabilities.

(Pub. L. 88–164, title I, § 130, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1316.)

EFFECTIVE DATE

Section 103 of Pub. L. 91–517 provided that: "The amendments made by sections 101 and 102 of this title [enacting this section and sections 2671 to 2677c of this title and amending sections 2691, and 2693 to 2696 of this title] shall apply with respect to fiscal years beginning after June 30, 1970. Funds appropriated before June 30, 1970, under part C of the Mental Retardation Facilities Construction Act [this subchapter] shall remain available for obligation during the fiscal year ending June 30, 1971."

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91–517 provided that: "This Act [enacting this section, sections 2661a, 2666 and 2671 to 2677c, amending sections 2661, 2662 to 2665, 2691, 2693 to 2696, enacting provisions set out as notes under this section, and amending provision set out as a note under section 2661 of this title] may be cited as the 'Developmental Disabilities Services and Facilities Construction Amendments of 1970'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2671, 2672 of this title.

§ 2671. Authorization of appropriations.

In order to make the grants to carry out the purposes of section 2670 of this title, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1971, $105,000,000 for the fiscal year ending June 30, 1972, and $130,000,000 for the fiscal year ending June 30, 1973. (Pub. L. 88–164, title I, § 131, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317.)

PRIOR PROVISIONS

A prior section 2671, Pub. L. 88–164, title I, § 131, Oct. 31, 1963, 77 Stat. 286; Pub. L. 90–170, § 3(a), Dec. 4, 1967, 81 Stat. 528, authorized appropriations through the fiscal year ending June 30, 1970, for grants for construction of mental retardation facilities.

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2672 of this title.

§ 2672. Allotments to States.

(a) Determination of amount; availability of unexpended funds.

(1) From the sums appropriated to carry out the purposes of section 2670 of this title for each fiscal year, other than amounts reserved by the Secretary for projects under subsection (e) of this section, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of (A) the population, (B) the extent of need for services and facilities for persons with developmental disabilities, and (C) the financial need, of the respective States; except that the allotment of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any such fiscal year shall not be less than $100,000 plus, if such fiscal year is later than the fiscal year ending June 30, 1971, and if the sums so appropriated for such fiscal year exceed the amount authorized to be appropriated to carry out such purposes for the fiscal year ending June 30, 1971, an amount which bears the same ratio to $100,000 as the difference between the amount so appropriated and the amount authorized to be appropriated for the fiscal year ending June 30, 1971.

bears to the amount authorized to be appropriated for the fiscal year ending June 30, 1971.

(2) In determining, for purposes of paragraph (1), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 2674(b)(5) of this title, in the State plan of such State approved under this subchapter.

(3) Sums allotted to a State for a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted to such State for such next fiscal year: *Provided,* That if the maximum amount which may be specified pursuant to section 2674(b)(15) of this title, for a year plus any part of the amount so specified pursuant thereto for the preceding fiscal year and remaining unobligated at the end thereof is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 2674(b)(13) of this title, the amount specified pursuant to such section for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(b) Apportionment of allotment among State agencies.

Whenever the State plan approved in accordance with section 2674 of this title provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilties assigned to such agencies in carrying out the purposes of this subchapter. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of this subchapter will receive proportionate benefit from the combination.

(c) Combined allotments to States involved in joint effort.

Whenever the State plan approved in accordance with section 2674 of this title provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(d) Reallotment of funds not required by a State.

The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section for such fiscal year.

(e) Grants to public or nonprofit private agencies.

Of the sums appropriated pursuant to section 2671 of this title, such amount as the Secretary may determine, but not more than 10 per centum thereof, shall be available for grants by the Secretary to public or nonprofit private agencies to pay up to 90 per centum of the cost of projects for carrying out the purposes of section 2670 of this title, which in his judgment are of special national significance because they will assist in meeting the needs of the disadvantaged with developmental disabilities, or will demonstrate new or improved techniques for provision of services for such persons, or are otherwise specially significant for carrying out the purposes of this subchapter, subchapter I of this chapter and sections 295 to 295e of this title. (Pub. L. 88–164, title I, § 132, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1317.)

PRIOR PROVISIONS

A prior section 2672, Pub. L. 88–164, title I, § 132, Oct. 31, 1963, 77 Stat. 286; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–170, § 3(c), Dec. 4, 1967, 81 Stat. 528, authorized allotments to States, transfers of allotments between States, and adjustment of allotments to a State for construction of facilities for the mentally retarded.

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2674 of this title.

§ 2673. National Advisory Council on Services and Facilities for the Developmentally Disabled.

(a) Establishment; designation of Chairman; membership.

(1) Effective July 1, 1971, there is hereby established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter referred to as the "Council"), which shall consist of twenty members, not otherwise in the regular full-time employ of the United States, to be appointed by the Secretary without regard to the provisions of Title 5 governing appointments in the competitive civil service.

(2) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

(3) The members of the Council shall be selected from leaders in the fields of service to the mentally retarded and other persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations representing consumers of such services. At least five members shall be representative of State or local public or nonprofit private agencies

responsible for services to persons with developmental disabilities, and at least five shall be representative of the interests of consumers of such services.

(b) Terms of office; vacancies.

Each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the twenty members first appointed, five shall hold office for a term of three years, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Secretary at the time of appointment.

(c) Duties and functions.

It shall be the duty and function of the Council to (1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of this subchapter, subchapter I of this chapter and sections 295 to 295e of this title, and (2) study and evaluate programs authorized by this subchapter, subchapter I of this chapter and sections 295 to 295e of this title with a view to determining their effectiveness in carrying out the purposes for which they were established.

(d) Technical and clerical assistance; statistical and other pertinent data.

The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

(e) Compensation; travel expenses.

Members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS–18 of the General Schedule for each day of such service (including travel time), and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. (Pub. L. 88–164, title I, § 133, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1318.)

REFERENCE IN TEXT

The General Schedule, referred to in subsec. (e), is classified to section 5332 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2673, Pub. L. 88–164, title I, § 133, Oct. 31, 1963, 77 Stat. 287, provided that within six months after Oct. 31, 1963, the Secretary, after consultation with the Federal Hospital Council, prescribe to the States (1) what constitutes adequate services for mentally retarded persons, (2) the method of determining priority of projects, (3) standards of construction and equipment, and (4) that the State plan provide adequate facilities for the mentally retarded including persons unable to pay therefor.

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2677 of this title.

§ 2674. State plans.

(a) Submission and approval.

Any State desiring to take advantage of this subchapter must have a State plan submitted to and approved by the Secretary under this section.

(b) Conditions for approval.

In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

(1) designate (A) a State planning and advisory council, to be responsible for submitting revisions of the State plan and transmitting such reports as may be required by the Secretary; (B) except as provided in clause (C), the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction under the State plan, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(2) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 2672 of this title will be used to complement and augment rather than duplicate or replace services and facilities for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(3) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities;

(4) contain or be supported by assurances satisfactory to the Secretary that (A) the funds paid to the State under this subchapter will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the

quality, scope, and extent of such services; (B) part of such funds will be made available to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

(5)(A) provide for the furnishing of services and facilities for persons with developmental disabilities associated with mental retardation, (B) specify the other categories of developmental disabilities (approved by the Secretary) which will be included in the State plan, and (C) describe the quality, extent, and scope of such services as will be provided to eligible persons;

(6) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services and the maintenance and operation of such facilities, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(7) provide such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(8) provide that the State planning and advisory council shall be adequately staffed, and shall include representatives of each of the principal State agencies and representatives of local agencies and nongovernmental organizations and groups concerned with services for persons with developmental disabilities: *Provided,* That at least one-third of the membership of such council shall consist of representatives of consumers of such services;

(9) provide that the State planning and advisory council will from time to time, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary;

(10) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and cerification of such reports;

(11) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

(12) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State;

(13) provide for the development of a program of construction of facilities for the provision of services for persons with developmental disabilities which (A) is based on a statewide inventory of existing facilities and survey of need; and (B) meets the requirements prescribed by the Secretary for furnishing needed services to persons unable to pay therefor;

(14) set forth the relative need, determined in accordance with regulations prescribed by the Secretary, for the several projects included in the construction program referred to in paragraph (13), and assign priority to the construction of projects, insofar as financial resources available therefor and for the maintenance and operation make possible, in the order of such relative need;

(15) specify the per centum of the State's allotment (under section 2672 of this title) for any year which is to be devoted to construction of facilities, which per centum shall be not more than 50 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

(16) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(17) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subchapter; and

(18) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this subchapter.

(c) Approval of conforming plan; notice and hearing prior to final disapproval.

The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State. (Pub. L. 88–164, title I, § 134, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1319.)

PRIOR PROVISIONS

A prior section 2674, Pub. L. 88–164, title I, § 134, Oct. 31, 1963, 77 Stat. 287; Public L. 90–170, § 5, Dec. 4, 1967, 81 Stat. 530, provided for submission to the Secretary of State plans for his approval, set out the conditions for approval, and required notice and hearing before final disapproval.

EFFECTIVE DATE

Section applicable with respect to fiscal years begining after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2672, 2675, 2676, 2677a, 2694, 2695 of this title.

§ 2675. Projects for construction.

(a) Application; contents.

For each project for construction pursuant to a State plan approved under this subchapter, there

shall be submitted to the Secretary, through the State agency designated pursuant to section 2674(b)(1)(C) of this title, an application by the State or a political subdivision thereof or by a public or nonprofit private agency. If two or more agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications thereof, in accordance with regulations prescribed by the Secretary;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the facility;

(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40; and

(6) a certification by the State agency of the Federal share for the project.

(b) Approval by Secretary.

The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (1) that the application contains such reasonable assurances as to title, financial support, and payment of prevailing rates of wages and overtime pay, (2) that the plans and specifications are in accord with regulations prescribed by the Secretary, (3) that the application is in conformity with the State plan approved under this subchapter, and (4) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the State's plan for persons with developmental disabilities and in accordance with regulations prescribed by the Secretary.

(c) Hearing prior to disapproval.

No application shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of application.

Amendment of any approved application shall be subject to approval in the same manner as the original application. (Pub. L. 88-164, title I, § 135, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1321.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(5), is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176), referred to in subsec. (a)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2675, Pub. L. 88-164, title I, § 135, Oct. 31, 1963, 77 Stat. 288, provided for the submission of an application for approval by the Secretary, of projects for construction, set forth the contents of such application, provided for hearing prior to disapproval, and subjected to approval any amendment of an approved application.

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91-517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2676, 2694, 2695 of this title.

§ 2676. Withholding of payments for construction.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning and advisory council designated pursuant to section 2674(b)(1)(A) of this title and the State agency designated pursuant to section 2674(b)(1)(C) of this title finds—

(a) that the State agency is not complying substantially with the provisions required by section 2674(b) of this title to be included in the State plan, or with regulations of the Secretary;

(b) that any assurance required to be given in an application filed under section 2675 of this title is not being or cannot be carried out;

(c) that there is a substantial failure to carry out plans and specifications related to construction approved by the Secretary under section 2674 of this title;

(d) that adequate funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify such State council and agency that—

(e) no further payments will be made to the State for construction from allotments under this subchapter; or

(f) no further payments will be made from allotments under this subchapter for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section;

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments for construction projects may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled. (Pub. L. 88-164, title I, § 136, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1322.)

PRIOR PROVISIONS

A prior section 2676, Pub. L. 88-164, title I, § 136, Oct. 31, 1963, 77 Stat. 289, authorized withholding by Secretary of payments for construction.

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91-517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2694 of this title.

§ 2677. Payments to the States for planning, administration, and services.

(a)(1) From each State's allotments for a fiscal year under section 2672 of this title, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this subchapter. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(2) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision thereof or by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State.

(b)(1) Except as provided in paragraph (2), the "Federal share" with respect to any State for purposes of this section for any fiscal year shall be 75 per centum of the expenditures, other than expenditures for construction, incurred by the State during such year under its State plan approved under this subchapter during each of the fiscal years ending June 30, 1971, and June 30, 1972, and 70 per centum of such nonconstruction expenditures during the fiscal year ending June 30, 1973.

(2) In the case of any project located in an area within a State determined by the Secretary to be an urban or rural poverty area, the "Federal share" with respect to such project for purposes of this section for any fiscal year may be up to 90 per centum of the expenditures, other than expenditures for construction, incurred by the State during such year under its State plan approved under this subchapter with respect to such project for the first twenty-four months of such project, and 80 per centum of such nonconstruction expenditures for the next twelve months. (Pub. L. 88-164, title I, § 137, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323.)

PRIOR PROVISIONS

A prior section 2677, Pub. L. 88-164, title I, § 137, Oct. 31, 1963, 77 Stat. 289; Pub. L. 90-170, § 3(b), Dec. 4, 1967, 81 Stat. 528, prohibited duplication of grants for the construction of any facility for the mentally retarded under the Public Health Service Act, section 201 et seq. of this title.

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91-517, set out as a note under section 2670 of this title.

§ 2677a. Withholding of payments for planning, administration, and services.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning and advisory council and the appropriate State agencies or agency, designated pursuant to section 2674 (b)(1) of this title finds that—

(a) there is a failure to comply substantially with any of the provisions required by section 2674 of this title to be included in the State plan; or

(b) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this subchapter,

the Secretary shall notify such State council and agency or agencies that further payments will not be made to the State under this subchapter (or, in his discretion, that further payments will not be made to the State under this subchapter for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under this subchapter, or shall limit further payment under this subchapter to such State to activities in which there is no such failure. (Pub. L. 88-164, title I, § 138, as added Pub. L. 91-517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323.)

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91-517, set out as a note under section 2670 of this title.

§ 2677b. Promulgation of regulations.

The Secretary, as soon as practicable, by general regulations applicable uniformly to all the States, shall prescribe—

(a) the kinds of services which are needed to provide adequate programs for persons with developmental disabilities, the kinds of services which may be provided under a State plan approved under this subchapter, and the categories of persons for whom such services may be provided;

(b) standards as to the scope and quality of services provided for persons with developmental disabilities under a State plan approved under this subchapter;

(c) the general manner in which a State, in carrying out its State plan approved under this subchapter, shall determine priorities for services and facilities based on type of service, categories of persons to be served, and type of disability, with special consideration being given to the needs for such services and facilities in areas of urban and rural poverty; and

(d) general standards of construction and equipment for facilities of different classes and in different types of location.

After appointment of the Council, regulations and revisions therein shall be promulgated by the Secretary only after consultation with Council. (Pub. L.

88–164, title I, § 139, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1323.)

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2662 of this title.

§ 2677c. Nonduplication of payments.

(a) In determining the amount of any payment for the construction of any facility under a State plan approved under this subchapter, there shall be disregarded (1) any portion of the costs of such construction which are financed by Federal funds provided under any provision of law other than this subchapter, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

(b) In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved under this subchapter, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than this subchapter, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. (Pub. L. 88–164, title I, § 140, as added Pub. L. 91–517, title I, § 101(b), Oct. 30, 1970, 84 Stat. 1324.)

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under this subchapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

SUBCHAPTER IIA.—PROFESSIONAL AND TECHNICAL SERVICES FOR COMMUNITY MENTAL RETARDATION FACILITIES

§ 2678. Authorization, duration, and amount of grants.

(a) Grants for professional and technical personnel.

For the purpose of assisting in the establishment and initial operation of facilities for the mentally retarded providing all or part of a program of comprehensive services for the mentally retarded principally designed to serve the needs of the particular community or communities in or near which the facility is situated, the Secretary may, in accordance with the provisions of this subchapter, make grants to meet, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations under section 2678c of this title) of compensation of professional and technical personnel for the initial operation of new facilities for the mentally retarded or of new services in facilities for the mentally retarded.

(b) Duration of grants; limitation of amounts.

Grants for such costs for any facility for the mentally retarded under this subchapter may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of four years and three months after such first day; and such grants with respect to any such facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following such first day, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(c) Determination by Secretary.

In making such grants, the Secretary shall take into account the relative needs of the several States for services for the mentally retarded, their relative financial needs, and their populations. (Pub. L. 88–164, title I, § 141, as added Pub. L. 90–170, § 4, Dec. 4, 1967, 81 Stat. 528.)

§ 2678a. Applications and conditions for approval.

(a) Necessity of application; conditions precedent.

Grants under this subchapter with respect to any facility for the mentally retarded may be made only upon application, and only if—

(1) the applicant is a public or nonprofit private agency or organization which owns or operates the facility;

(2) (A) a grant was made under subchapter II of this chapter to assist in financing the construction of the facility or (B) the type of service to be provided as part of such program with the aid of a grant under this subchapter was not previously being provided by the facility with respect to which such application is made;

(3) the Secretary determines that there is satisfactory assurance the Federal funds made available under this subchapter for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds for mental retardation services that would in the absence of such Federal funds be made available for (or under) the program described in paragraph (2) of this subsection, and will in no event supplant such State, local, and other non-Federal funds; and

(4) in the case of an applicant in a State which has in existence a State plan relating to the provision of services for the mentally retarded, the services to be provided by the facility are consistent with the plan.

(b) Limitation of availability of grants.

No grant may be made under this subchapter after June 30, 1972, with respect to any facility for the mentally retarded or with respect to any type of service provided by such a facility unless a grant with respect thereto was made under this subchapter prior to July 1, 1970. (Pub. L. 88–164, title I, § 142, as added Pub. L. 90–170, § 4, Dec. 4, 1967, 81 Stat. 529.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2678c of this title.

§ 2678b. Payment of grants; adjustments.

Payment of grants under this subchapter may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine. (Pub. L. 88–164, title I,

§ 143, as added Pub. L. 90–170, § 4, Dec. 4, 1967, 81 Stat. 529.)

§ 2678c. Regulations.

The Secretary shall prescribe general regulations concerning the eligibility of facilities under this subchapter, determination of eligible costs with respect to which grants may be made, and the terms and conditions (including those specified in section 2678a of this title) for approving applications under this subchapter. (Pub. L. 88–164, title I, § 144, as added Pub. L. 90–170, § 4, Dec. 4, 1967, 81 Stat. 529.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2678 of this title

§ 2678d. Authorization of appropriations.

There are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, and $14,000,000 for the fiscal year ending June 30, 1970, to enable the Secretary to make initial grants to facilities for the mentally retarded under the provisions of this subchapter. For the fiscal year ending June 30, 1969, and each of the next five years, there are authorized to be appropriated such sums as may be necessary to make grants to such facilities which have previously received a grant under this subchapter and are eligible for such a grant for the year for which sums are being appropriated under this sentence. (Pub. L. 88–164, title I, § 145, as added Pub. L. 90–170, § 4, Dec. 4, 1967, 81 Stat. 529.)

SUBCHAPTER III.—COMMUNITY MENTAL HEALTH CENTERS

PART A.—GRANTS FOR CONSTRUCTION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2688g, 2688i, 2688k, 2688m, 2692, 2693 of this title.

§ 2681. Authorization of appropriations.

There are authorized to be appropriated, for grants for construction of public and other nonprofit community mental health centers, $35,000,000 for the fiscal year ending June 30, 1965, $50,000,000 for the fiscal year ending June 30, 1966, $65,000,000 for the fiscal year ending June 30, 1967, $50,000,000 for the fiscal year ending June 30, 1968, $60,000,000 for the fiscal year ending June 30, 1969, $70,000,000 for the fiscal year ending June 30, 1970, $80,000,000 for the fiscal year ending June 30, 1971, $90,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973. (Pub. L. 88–164, title II, § 201, Oct. 31, 1963, 77 Stat. 290; Pub. L. 90–31, § 2(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, § 101(a), Mar. 13, 1970, 84 Stat. 54.)

AMENDMENTS

1970—Pub. L. 91–211 added the fiscal years ending June 30, 1971, 1972, and 1973 to the enumeration of fiscal years for which appropriations are authorized, and set the authorizations for such years at $80,000,000, $90,000,000, and $100,000,000, respectively.

1967—Pub. L. 90–31 added the fiscal years ending June 30, 1968, 1969, and 1970 to the enumeration of fiscal years for which appropriations are authorized, and set the authorizations for such years at $50,000,000, $60,000,000, and $70,000,000, respectively.

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91–211 provided that: "This Act [enacting sections 2688j–1, 2688r to 2688v, and 2697b of this title, amending this section and sections 2682, 2687 to 2688a, 2688d, 2688f to 2688h, 2688k, 2688l, 2688o, 2691, and 2693 of this title, repealing section 2692 of this title, enacting provisions set out as notes under this section and sections 2682, 2688, 2688f to 2688h, 2688k, 2688t, 2691, and 2693 of this title, and former section 2692 of this title, and amending provision set out as a note under section 2688e of this title] may be cited as the 'Community Mental Health Centers Amendments of 1970'."

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90–31 provided: "That this Act [adding section 225a of this title and amending this section and sections 2684(a)(7), 2687, 2688a(b), 2688d, and 2691(e) of this title] may be cited as the 'Mental Health Amendments of 1967'."

SHORT TITLE

Section 200 of Pub. L. 88–164 provided that: "This title [this subchapter] may be cited as the 'Community Mental Health Centers Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2682 of this title.

§ 2682. Allotments to States.

(a) Determination of amount; availability of unexpended funds.

For each fiscal year, the Secretary shall, in accordance with regulations, make allotments from the sums appropriated under section 2681 of this title to the several States on the basis of (1) the population, (2) the extent of the need for community mental health centers, and (3) the financial need of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, for any fiscal year may be less than $100,000. Sums so allotted to a State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted for such State for such next fiscal year. Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it for such purpose for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(b) Transfers of allotments between States.

In accordance with regulations of the Secretary, any State may file with him a request that a specified portion of its allotment under this part be added to the allotment of another State under this part for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a community mental health center in such other State. If it is found by the Secretary that construction of the center with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this part, such portion of such State's allotment shall be added to the allotment of the other State under this part to be used for the purpose referred to above.

(c) Adjustment of allotments to a State.

Upon the request of any State that a specified portion of its allotment under this part be added to the allotment of such State under subchapter II of this chapter and upon (1) the simultaneous certification to the Secretary by the State agency designated as provided in the State plan approved under this part to the effect that it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portion or (2) a showing satisfactory to the Secretary that the need for facilities for the mentally retarded in such State is substantially greater than for community mental health centers, the Secretary shall, subject to such limitations as he may by regulation prescribe, promptly adjust the allotments of such State in accordance with such request and shall notify such State agency and the State agency designated under the State plan approved under subchapter II of this chapter, and thereafter the allotments as so adjusted shall be deemed the State's allotments for purposes of this part and subchapter II of this chapter. (Pub. L. 88-164, title II, § 202, Oct. 31, 1963, 77 Stat. 290; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 91-211, title I, § 102(a), Mar. 13, 1970, 84 Stat. 54.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-211 made the Trust Territory of the Pacific Islands eligible for assistance under this subchapter on the same basis as the Virgin Islands, Guam, and American Samoa and provided that allotments to the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, and American Samoa for construction grants under this subchapter and remaining unobligated at the end of such year would remain available two fiscal years following the year the allotment was made.

1965—Subsec. (b). Pub. L. 89-105 substituted "this part" for "this title" wherever appearing.

Subsec. (c). Pub. L. 89-105 substituted "this part" for "this title" wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 102(c) of Pub. L. 91-211 provided that: "The amendments made by this section [amending subsec. (a) of this section and section 2691(a) of this title] shall be effective with respect to allotments under section 202 [this section] from funds appropriated for fiscal years beginning after June 30, 1970."

§ 2683. General regulations.

Within six months after October 31, 1963, the Secretary shall, after consultation with the Federal Hospital Council (established by section 291k of this title) and the National Advisory Mental Health Council (established by section 218 of this title), by general regulations applicable uniformly to all the States, prescribe—

Adequacy of services.

(1) the kinds of community mental health services needed to provide adequate mental health services for persons residing in a State;

Priority of projects.

(2) the general manner in which the State agency (designated as provided in the State plan approved under this part) shall determine the priority of projects based on the relative need of different areas, giving special consideration to projects on the basis of the extent to which the centers to be constructed thereby will, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, provide comprehensive mental health services (as determined by the Secretary in accordance with regulations) for mentally ill persons in a particular community or communities or which will be part of or closely associated with a general hospital;

Standards of construction and equipment.

(3) general standards of construction and equipment for centers of different classes and in different types of location; and

State plan.

(4) that the State plan shall provide for adequate community mental health centers for people residing in the State, and shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor. Such regulations may require that before approval of an application for a center or addition to a center is recommended by a State agency, assurance shall be received by the State from the applicant that there will be made available in such center or addition a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

(Pub. L. 88-164, title II, § 203, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89-105, § 2(a), Aug. 4, 1965, 79 Stat. 427.)

AMENDMENTS

1965—Pub. L. 89-105 substituted "this part" for "this title."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2684, 2685, 2688j of this title.

§ 2684. State plans.

(a) Submission; requirements.

After such regulations have been issued, any State desiring to take advantage of this part shall submit a State plan for carrying out its purposes. Such State plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) hereof will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernment organizations or groups, and of State agencies, concerned with planning, operation, or utilization of community mental health centers or other mental health facilities, including representatives of consumers of the services provided by such centers and facilities who are familiar with the need for such services, to consult with the State agency in carrying out such plan;

(4) set forth a program for construction of community mental health centers (A) which is based on a statewide inventory of existing facilities and survey of need; (B) which conforms with

the regulations prescribed by the Secretary under section 2683(1) of this title; and (C) which meets the requirements for furnishing needed services to persons unable to pay therefor, included in regulations prescribed under section 2683(4) of this title;

(5) set forth the relative need, determined in accordance with the regulations prescribed under section 2683(2) of this title, for the several projects included in such programs, and provide for the construction, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(6) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of centers which receive Federal aid under this part and, effective July 1, 1969, provide for enforcement of such standards with respect to projects approved by the Secretary under this part after June 30, 1967;

(8) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(9) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(10) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) Approval by Secretary; notice and hearing prior to disapproval.

The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State. (Pub. L. 88–164, title II, § 204, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–31, § 4(b), June 24, 1967, 81 Stat. 79.)

AMENDMENTS

1967—Subsec. (a)(7). Pub. L. 90–31 added provisions that, effective July 1, 1969, the State's plan for the construction of community mental health centers include methods for the enforcement of the minimum standards which the State promulgates with respect to projects approved by the Secretary under this part after June 30, 1967.

1965—Subsec. (a). Pub. L. 89–105 substituted "this part" for "this title" wherever appearing.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(6) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(A) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2685, 2686, 2688f, 2688n–1, 2694, 2695 of this title.

§ 2685. Projects for construction.

(a) Application; contents; approval by Secretary; hearing prior to disapproval.

For each project for construction pursuant to a State plan approved under this part, there shall be submitted to the Secretary through the State agency an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 2683(3) of this title;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the community mental health center;

(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by constractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended; and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 276c of Title 40; and

(6) a certification by the State agency of the Federal share for the project.

The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (A) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages and overtime pay; (B) that the plans and specifications are in accord with the regulations prescribed pursuant to section 2683 of this title; (C) that the application is in conformity with the State plan approved under section 2684 of this title and contains an assurance that in the operation of the center there will be compliance with the applicable requirements of the State plan and of the regulations prescribed under section 2683 (4) of this title for furnishing needed services for persons unable to pay therefor, and with State standards for operation and maintenance; (D) that the services to be provided by the center, alone or in

conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is to be situated, at least those essential elements of comprehensive mental health services for mentally ill persons which are prescribed by the Secretary in accordance with regulations; and (E) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 2683(2) of this title. No application shall be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing.

(b) Amendment of application.

Amendment of any approved application shall be subject to approval in the same manner as an original application. (Pub. L. 88–164, title II, § 205, Oct. 31, 1963, 77 Stat. 292; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a)(5), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176), referred to in subsec. (a)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89–105 substituted "this part" for "this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2686, 2688f, 2688h, 2688k, 2694, 2695 of this title.

§ 2686. Withholding of payments.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 2684(a)(1) of this title, finds—

(1) that the State agency is not complying substantially with the provisions required by section 2684 of this title to be included in its State plan, or with regulations under this part;

(2) that any assurance required to be given in an application filed under section 2685 of this title is not being or cannot be carried out;

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 2685 of this title; or

(4) that adequate State funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify the State agency that—

(5) no further payments will be made to the State from allotments under this part; or

(6) no further payments will be made from allotments under this part for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (1), (2), (3), or (4) of this section,

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled. (Pub. L. 88–164, title II, § 206, Oct. 31, 1963, 77 Stat. 293; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427.)

AMENDMENTS

1965—Pub. L. 89–105 substituted "this part" for "this title" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2694 of this title.

§ 2687. Nonduplication of grants.

No grant may be made after January 1, 1964, under any provision of the Public Health Service Act, for any of the fiscal years in the period beginning July 1, 1964, and ending June 30, 1973, for construction of any facility described in this part, unless the Secretary determines that funds are not available under this part to make a grant for the construction of such facility. (Pub. L. 88–164, title II, § 207, Oct. 31, 1963, 77 Stat. 294; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–31, § 2(b), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, § 101(b), Mar. 13, 1970, 84 Stat. 54.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in the text, is classified to chapter 6A of this title.

AMENDMENTS

1970—Pub. L. 91–211 extended the term of the nonduplication prohibition three years by substituting June 30, 1973, for June 30, 1970, as the terminal date.

1967—Pub. L. 90–31 extended the term of the nonduplication prohibition three years by substituting June 30, 1970, for June 30, 1967, as the terminal date.

1965—Pub. L. 89–105 substituted "this part" for "this title" wherever appearing.

PART B.—GRANTS FOR INITIAL COST OF PROFESSIONAL AND TECHNICAL PERSONNEL OF CENTERS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2688l, 2688m of this title.

§ 2688. Authorization, duration and amount of grants.

(a) Grants to meet portion of costs of compensation of professional and technical personnel.

For the purpose of assisting in the establishment and initial operation of community mental health centers providing all or part of a comprehensive community mental health program, the Secretary may, in accordance with the provisions of this part, make grants to meet, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations under section 2688c of this title) of compensation of professional and technical personnel for the initial operation of new community mental health centers or of new services in community mental health centers.

(b) Term of grants; maximum amounts.

(1) Grants under this section for such costs for any center may be made only for the period begin-

ning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and, except as provided in paragraph (2), such grants with respect to any center may not exceed 75 per centum of such costs for each of the first two years after such first day, 60 per centum of such costs for the third year after such first day, 45 per centum of such costs for the fourth year after such first day, and 30 per centum of such costs for each of the next four years after such first day.

(2) In the case of any such center providing services for persons in an area designated by the Secretary as an urban or rural poverty area, grants under this section for such costs for any such center may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

(c) Matters considered in making grants.

In making such grants, the Secretary shall take into account the relative needs of the several States for community mental health center programs, their relative financial needs, and their populations. (Pub. L. 88–164, title II, § 220, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 428, and amended Pub. L. 91–211, title II, § 201(a), Mar. 13, 1970, 84 Stat. 56.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–211 designated existing provisions as par. (1) and as so designated substituted eight years for four years and three months as the duration of grants to all community mental health centers, provided that the ceiling on such grants shall be 75 percent of costs during each of the first two years, 60 percent of costs during the third year, 45 percent of costs during the fourth year, and 30 percent of costs during each of the next four years, and added par. (2).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 201(a) of Pub. L. 91–211 provided in part that the amendment of subsec. (b) of this section by section 201(a) of Pub. L. 91–211 is effective with respect to costs of compensation of professional and technical personnel of any community mental health center for any period after June 30, 1970, for which a grant has been or is made under subsec. (a) of this section.

Section 201(b) of Pub. L. 91–211 provided that: "In the case of any community mental health center for which a staffing grant was made under section 220 of the Community Mental Health Centers Act [this section] before July 1, 1970, the provisions of subsection (b) of section 220 of such Act [this section] (as amended by subsection (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsection (b) had been in effect on the date a staffing grant for such center was initially made."

Section 201(c) of Pub. L. 91–211, as added by Pub. L. 91–515, title III, § 301, Oct. 30, 1970, 84 Stat. 1308, provided that: "In the case of any community mental health center—

"(1) for which a staffing grant was made under Part B of the Community Mental Health Centers Act [sections 2688–2688d of this title] for any period which began on or before June 30, 1970; and

"(2)(A) with respect to which the portion of the costs (as described in section 220(a) of such Act [subsec. (a) of this section]) which may be met from funds under a grant under such part B is increased (by reason of the enactment of the preceding subsections of this section) for any period after June 30, 1970; or

"(B) with respect to which the period during which a grant under such part B may be made is extended by reason of the enactment of subsection (a) of this section; the provisions of section 221(a)(4) of such Act [section 2688a(a)(4) of this title] shall be deemed to have been complied with for any period after June 30, 1970, if the Secretary determines that there is satisfactory assurance that the amount of total costs, Federal and non-Federal (as described in section 220(a) of such Act), which will be incurred by such center for staffing purposes for any period after June 30, 1970, will not be less than the amount of such total costs for the period which last commenced on or before June 30, 1970, except that the grantee shall not be required to increase the amount contributed as the non-Federal share in the event the amount of the Federal participation is reduced."

SHORT TITLE

Section 1 of Pub. L. 89–105 provided: "That this Act [enacting sections 2688—2688d and 2697 of this title and section 553 of Title 31, and amending sections 2672, 2682—2687 and 2692 of this title and sections 615, 617, and 618 of Title 20] may be cited as the 'Mental Retardation Facilities and Community Mental Health Centers Construction Act Amendments of 1965'."

§ 2688a. Applications and conditions for approval.

(a) Necessity of application; conditions precedent to making grant.

Grants under this part with respect to any community mental health center may be made only upon application, and only if—

(1) the applicant is a public or nonprofit private agency or organization which owns or operates the center;

(2) the services to be provided by the center, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is situated, at least those essential elements of comprehensive mental health services which are prescribed by the Secretary;

(3)(A) a grant was made under part A of this subchapter to assist in financing the construction of the center or (B) the type of service to be provided as part of such program with the aid of a grant under this part was not previously being provided by the center with respect to which such application is made;

(4) the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided, and (B) Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds, including third party health insurance payments, that would in the absence of such Federal funds be made available for the program described in paragraph (2) of this subsection and will in no event supplant such State, local, and other non-Federal funds; and

(5) the services to be provided by the center are described in the State mental health plan submitted to the Public Health Service by the State

mental health authority in accordance with title III of the Public Health Service Act.

Notwithstanding the provisions of paragraph (2) of this subsection, the requirement therein with respect to essential elements of comprehensive mental health services shall not apply, in the case of an application for a grant to any center which will provide services in an area designated by the Secretary as an urban or rural poverty area, for the eighteen-month period commencing on the date such application is filed, if the Secretary is satisfied that such center will meet such requirement prior to the end of such period; however, if such center has not by the end of such eighteen-month period met such requirement, payments under any grant (made under such application) to such center shall be suspended until the Secretary determines that the center has met such requirement.

(b) Restriction upon making grant.

No grant may be made under this part after June 30, 1973, with respect to any community mental health center or with respect to any type of service provided by such a center unless a grant with respect thereto was made under this part prior to July 1, 1973. (Pub. L. 88–164, title II, § 221, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 428, and amended Pub. L. 90–31, § 3(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title II, §§ 203, 204(c), Mar. 13, 1970, 84 Stat. 57.)

REFERENCES IN TEXT

Title III of the Public Health Service Act, referred to in subsec. (a)(5) of this section, is classified to sections 241—246, 247—253, 254—258, 259—272, and 274—280a of this title.

AMENDMENTS

1970—Subsec. (a)(4). Pub. L. 91–211, § 203(a), provided that a grant could be made with respect to a community mental health center only if the Secretary determined that the services to be provided would be in addition to, or a significant improvement in, the services that would otherwise be provided and required that the Secretary determine that there is satisfactory assurance that the grant funds will be used to supplement and, if practical, to increase the level of third party health insurance payments that would otherwise be made available for mental health services.

Subsec. (a). Pub. L. 91–211, § 203(b), added provisions following par. (5) that in the case of an application for a center providing services in an urban or rural poverty area, the requirement that an applicant for a grant for a community mental health center provide the essential elements of comprehensive mental health services would not apply during the eighteen month period beginning on the date such application was filed if the Secretary was satisfied that the center would meet such requirement before the end of such period, however, if the center did not meet such requirement by the end of the eighteen month period, payment under any grant to the center would be suspended until the Secretary determined that the center had met such requirement.

Subsec. (b). Pub. L. 91–211, § 204(c), substituted "1973" for "1970" wherever appearing.

1967—Subsec. (b). Pub. L. 90–31 substituted "1970" for "1968" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2688c, 2688g of this title.

§ 2688b. Payments.

Payment of grants under this part may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine. (Pub. L. 88–164, title II, § 222, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 429.)

§ 2688c. Regulations.

The Secretary shall, after consultation with the National Advisory Mental Health Council (appointed pursuant to the Public Health Service Act), prescribe general regulations concerning eligibility of centers under this part, determination of eligible costs with respect to which grants may be made, and the terms and conditions (including those specified in section 2688a of this title) for approving applications under this part. (Pub. L. 88–164, title II, § 223, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 429.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is classified to chapter 6A of this title.

§ 2688d. Authorization of appropriations.

(a) There are hereby authorized to be appropriated $19,500,000 for the fiscal year ending June 30, 1966, $24,000,000 for the fiscal year ending June 30, 1967, $30,000,000 for the fiscal year ending June 30, 1968, $26,000,000 for the fiscal year ending June 30, 1969, $32,000,000 for the fiscal year ending June 30, 1970, $45,000,000 for the fiscal year ending June 30, 1971, $50,000,000 for the fiscal year ending June 30, 1972, and $60,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary to make initial grants to community mental health centers under the provisions of this part. For the fiscal year ending June 30, 1967, and each of the thirteen succeeding years, there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant for the year for which sums are being appropriated under this sentence.

(b) Not to exceed 5 per centum of the amount appropriated for grants pursuant to subsection (a) of this section for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of projects, in areas designated by the Secretary as rural or urban poverty areas, for assessing local needs for mental health services, designing mental health service programs, obtaining local financial and professional assistance and support for community health services, and fostering community involvement in initiating and developing community mental health services. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project. (Pub. L. 88–164, title II, § 224, as added Pub. L. 89–105, § 2(b), Aug. 4, 1965, 79 Stat. 429, and amended Pub. L. 90–31, § 3(b), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title II, §§ 202, 204 (a), (b), Mar. 13, 1970, 84 Stat. 56, 57.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–211, §§ 202, 204 (a), (b), designated existing provisions as subsec. (a) and as so

designated, added the fiscal years ending June 30, 1971, 1972, and 1973 to the enumeration of fiscal years for which appropriations are authorized for initial grants to community mental health centers and set the appropriations for such years at $45,000,000, $50,000,000, and $60,000,000 respectively, and extended for six years the period during which appropriations are authorized for the purpose of making continuation grants by raising from seven to thirteen years the period following June 30, 1967, during which appropriations for continuation grants are authorized.

Subsec. (b). Pub. L. 91–211, § 202, added subsec. (b).

1967—Pub. L. 90–31 added the fiscal years ending June 30, 1969 and 1970 to the enumeration of fiscal years for which appropriations are authorized for initial grants to community mental health centers and set the authorizations for such years at $26,000,000 and $32,000,000, respectively, and extended for two years the period during which appropriations are authorized for the purpose of making continuation grants by raising from five to seven years the period following June 30, 1967, during which appropriations for continuation grants are authorized.

PART C.—GRANTS FOR FACILITIES FOR ALCOHOLIC REHABILITATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2688o, 2688q of this title.

§ 2688e. Congressional declaration of purpose.

(a) Nature of problem; alcoholism treatment.

The Congress hereby finds that—

(1) Alcoholism is a major health and social problem afflicting a significant proportion of the public, and much more needs to be done by public and private agencies to develop effective prevention and control.

(2) Alcoholism treatment and control programs should whenever possible: (A) be community based, (B) provide a comprehensive range of services, including emergency treatment, under proper medical auspices on a coordinated basis, and (C) be integrated with and involve the active participation of a wide range of public and nongovernmental agencies.

(3) The handling of chronic alcoholics within the system of criminal justice perpetuates and aggravates the broad problem of alcoholism whereas treating it as a health problem permits early detection and prevention of alcoholism and effective treatment and rehabilitation, relieves police and other law enforcement agencies of an inappropriate burden that impedes their important work, and better serves the interests of the public.

(b) Federal aid for construction and staffing of facilities for treatment of alcoholism.

It is the purpose of this part to help prevent and control alcoholism through authorization of Federal aid in the construction and staffing of facilities for the prevention and treatment of alcoholism.

(c) Additional Federal legislation.

The Congress further declares that, in addition to the funds provided for under this part, other Federal legislation providing for Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the fields of health should be utilized to help eradicate alcoholism as a major health problem. (Pub. L. 88–164, title II, § 240, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1006.)

SHORT TITLE

Section 300 of Pub. L. 90–574 provided that: "This title [enacting this section and sections 2688f—2688q and 2697a of this title, repealing section 3442 of this title, and enacting provisions set out as notes under this section and section 3442 of this title] may be cited as the 'Alcoholic and Narcotic Addict Rehabilitation Amendments of 1968'."

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 2688f. Grants for construction of facilities; application; conditions for approval; limitation on Federal share of costs.

(a) Grants from appropriations under section 2688o of this title may be made for projects for construction of any facilities (including post-hospitalization treatment facilities) for the prevention and treatment of alcoholism, but only to a public or nonprofit private agency or organization and only upon an application (1) which meets the requirements for approval under clauses (1) through (5) and clauses (A) and (B) of section 2685(a) of this title, and (2) which contains—

(A) a showing of the need, in the area to be served by the applicant, for special facilities for the inpatient or outpatient treatment, or both, of alcoholism;

(B) satisfactory assurance that the services for prevention and treatment of alcoholism to be provided through the facility to be constructed, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated or having an arrangement with the applicant, will be part of a program providing, principally for persons residing in or near the particular community or communities in which such facility is situated, at least those essential elements of comprehensive mental health services and services for the prevention and treatment of alcoholism, including post-institutional aftercare and rehabilitation, that are prescribed by the Secretary;

(C) satisfactory assurance that the application has been approved and recommended by the single State agency designated by the State as being the agency primarily responsible for care and treatment of alcoholics in the State, and, in case this agency is different from the agency designated pursuant to section 2684(a)(1) of this title, a showing that the application has also been approved and recommended by the agency designated pursuant to section 2684(a)(1) of this title, and, in case neither of these is the State mental health authority, a showing that the application has been approved and recommended by such authority;

(D) a showing that under regulations of the Secretary prescribing the manner of determining priorities the project is entitled to priority over other projects for treatment of alcoholism, if any, within the State, and is in accordance with such criteria, including the willingness and ability to provide satisfactory alternatives to custodial care,

as the Secretary may determine to be appropriate for purposes of this section; and

(E) a showing that adequate provision has been made for compliance with regulations of the Secretary prescribed under section 2683(4) of this title relating to furnishing needed services for persons unable to pay therefor and for compliance with State standards for operation and maintenance.

(b) The amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine. (Pub. L. 88–164, title II, § 241, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1007, and amended Pub. L. 91–211, title III, § 302, Mar. 13, 1970, 84 Stat. 58.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–211 added provision increasing percentage of grant in relation to total cost of any project under this section to 90 percent of cost of the project in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 302 of Pub. L. 91–211 provided in part that the amendment of subsec. (b) of this section by section 302 of Pub. L. 91–211 is effective with respect to projects under part C or part D of this subchapter approved after June 30, 1970.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2688g of this title.

§ 2688g. Grants for staffing of facilities.

(a) Compensation of professional and technical personnel.

Grants from appropriations under section 2688o of this title may be made to any public or nonprofit private agency or organization to assist it in meeting, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the initial operation of new facilities for the prevention and treatment of alcoholism or of new services in existing facilities for the prevention or treatment of alcoholism.

(b) Duration of grant; limitation on Federal share of costs.

(1) Grants under this part for such costs for any facility may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and, except as provided in paragraph (2), such grants with respect to any facility may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day.

(2) In the case of any such facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants with respect to any such facility may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

(c) Determination by Secretary of need for grant.

In making such grants, the Secretary shall take into account the relative needs of the several States for alcoholism programs, the relative financial needs of the applicants, and the relative populations of the areas to be served by the applicants.

(d) Application; conditions for approval.

A grant under this section may be made only upon an application which meets the requirements for approval under section 2688a of this title, other than paragraph (3) thereof, and only if (1) a grant was made under part A or section 2688f of this title to assist in financing the construction of the facility, or (2) the type of service to be provided with the aid of a grant under this section was not previously being provided by the facility with respect to which such application is made. (Pub. L. 88–164, title II, § 242, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat 1008, and amended Pub. L. 91–211, title III, § 303(a), Mar. 13, 1970, 84 Stat. 58.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–211 designated existing provisions as par. (1) and as so designated substituted eight years for four years and three months as the duration of grants for facilities and services for alcoholics and narcotic addicts, provided that the ceiling on such grants shall be 80 percent of costs during each of the first two years, 75 percent of costs during the third year, 60 percent of costs during the fourth year, 45 percent of costs during the fifth year, and 30 percent of costs during each of the next three years, and added par. (2).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 303(a) of Pub. L. 91–211 provided in part that the amendment of subsec. (b) of this section by section 303(a) of Pub. L. 91–211 was effective with respect to costs of compensation of professional and technical personnel of any alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotic addicts for any period after June 30, 1970, for which a grant has been or is made under this section or sections 2688h or 2688k of this title.

Section 303(b) of Pub. L. 91–211 provided that: "In the case of any alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotic addicts, for which a staffing grant was made under section 242, 243, or 251 of the Community Mental Health Centers Act [this section or section 2688h or 2688k of this title] before July 1, 1970, the provisions of subsection (b) of section 242 of such Act [subsec. (b) of this section] (as amended by subsection (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsection (b)

had been in effect on the date a staffing grant for such center or facility was initially made."

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2688u of this title.

§ 2688h. Grants for specialized facilities.

(a) Specialized facilities and personnel.

Grants from appropriations under section 2688o of this title may also be made to public or nonprofit private agencies or organizations for projects for the construction or leasing of specialized facilities (including facilities for emergency medical services, intermediate care services, or outpatient services, and post-hospitalization treatment facilities) for the treatment of alcoholics requiring care in such facilities, and for costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A or this section or of new services in existing specialized facilities for the treatment of alcoholics.

(b) Determination by Secretary of need for grant.

Grants may be made under subsection (a) of this section only with respect to (1) facilities which are a part of or affiliated with a community mental health center providing at least those essential elements of comprehensive community mental health services which are prescribed by the Secretary, or (2) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of alcoholism.

(c) Duration of grant; limitation on Federal share of costs.

Grants made under subsection (a) of this section for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 2688g of this title.

(d) Application; conditions for approval.

Before a grant may be made under subsection (a) of this section for a project for the construction of a facility for the treatment of alcoholics the Secretary must find that the application for such grant meets the requirement of section 2685(a)(5) of this title (relating to the payment of prevailing wages). The amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine. (Pub. L. 88–164, title II, § 243, as added Pub. L. 90–574, title III, § 301, Oct 15, 1968, 82 Stat. 1008, and amended Pub. L. 91–211, title III, § 302, Mar 13, 1970, 84 Stat. 58; Pub. L. 91–616, title III, § 332, Dec. 31, 1970, 84 Stat. 1853.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–616 authorized leasing of specialized facilities and explained the meaning of the term "specialized facilities" to include facilities for emergency medical services, intermediate care services, or outpatient services.

Subsec. (d). Pub. L. 91–211 added provision increasing percentage of grant in relation to total cost of any project under this section to 90 percent of cost of the project in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 302 of Pub. L. 91–211 provided in part that the amendment of subsec. (d) of this section by section 302 of Pub. L. 91–211 was effective with respect to projects under part C or part D of this subchapter approved after June 30, 1970.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

§ 2688i. Eligibility of projects for grants for construction or initial staffing of facilities.

Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the prevention and treatment of alcoholism. (Pub. L. 88–164, title II, § 244, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009.)

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 2688j. Manner of payment of grants.

Payments of grants under this part may be made in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine. (Pub. L. 88–164, title II, § 245, as added Pub. L. 90–574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009.)

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

§ 2688j-1. Grants to public or nonprofit private agencies for developing specialized training programs, training personnel, conducting surveys and field trials, and programs of special significance.

The Secretary is authorized during the period beginning July 1, 1970, and ending June 30, 1973, to make grants to any public or nonprofit private agency or organization to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of public health services for the prevention or treatment of alcoholism, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; (3) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of alcoholism within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (4) programs for treatment and rehabilitation of alcoholics which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such alcoholics. (Pub. L. 88-164, title II, § 246, as added Pub. L. 91-211, title III, § 304, Mar. 13, 1970, 84 Stat. 59.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2688o of this title.

§ 2688j-2. Grants and contracts for the prevention and treatment of alcohol abuse and alcoholism.

(a) Projects and programs.

The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, may make grants to public and private nonprofit agencies, organizations, and institutions and may enter into contracts with public and private agencies, organizations, and institutions, and individuals—

(1) to conduct demonstration, service, and evaluation projects,

(2) to provide education and training,

(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) Community participation.

Projects for which grants or contracts are made under this section shall, whenever possible, be community based, provide a comprehensive range of services, and be integrated with, and involve the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals.

(c) Applications; criteria for approval.

(1) In administering the provisions of this section, the Secretary shall require coordination of all applications for programs in a State.

(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 4573 of this title, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under such section 4573. The State shall furnish the applicant a copy of any such evaluation.

(3) Approval for any applications for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(D) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

(d) Authorization of appropriations.

To carry out the purposes of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971, $40,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 for the fiscal year ending June 30, 1973. (Pub. L. 88-164, title II, § 247, formerly § 246, as added Pub. L. 90-574, title III, § 301, Oct. 15, 1968, 82 Stat. 1009, renumbered Pub. L. 91-211, title III, § 304, Mar. 13, 1970, 84 Stat. 59, and amended Pub. L. 91-616, title III, § 311, Dec. 31, 1970, 84 Stat. 1851.)

PART D.—NARCOTIC ADDICTION, DRUG ABUSE, AND DRUG DEPENDENCE PREVENTION AND REHABILITATION

AMENDMENTS

1970—Pub. L. 91-513, title I, § 1(a)(3), Oct. 27, 1970, 84 Stat. 1238, inserted references to narcotic addiction prevention, drug abuse, and drug dependence prevention and rehabilitation in the part heading.

§ 2688k. Grants for treatment facilities.

(a) Construction costs; compensation of professional and technical personnel.

Grants from appropriations under section 2688o of this title may be made to public or nonprofit private agencies and organizations to assist them in meeting the costs of construction of treatment facil-

ities (including posthospitalization treatment facilities) for narcotic addicts and other persons with drug abuse and drug dependence problems within the States, and to assist them in meeting the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A or this part or of new services in existing treatment facilities for narcotic addicts and other persons with drug abuse and drug dependence problems.

(b) Administration of grant program; application; conditions for approval.

The grant program for construction of facilities authorized by subsection (a) of this section shall be carried out consistently with the grant program under part A except to the extent, in the judgment of the Secretary, special considerations make differences appropriate; but (1) before the Secretary may make a grant under such subsection for the construction of a treatment facility for narcotic addicts and other persons with drug abuse and drug dependence problems he must find that the application for such grant meets the requirement of section 2685(a)(5) of this title (relating to the payment of prevailing wages), and (2) the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

(c) Duration of grant; limitation on Federal share of costs.

Grants made under subsection (a) of this section for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 2688g of this title. (Pub. L. 88-164, title II, § 251, as added Pub. L. 90-574, title III, § 302, Oct. 15, 1968, 82 Stat. 1009, and amended Pub. L. 91-211, title III, § 302, Mar. 13, 1970, 84 Stat. 58; Pub. L. 91-513, title I, § 1(a)(1), Oct. 27, 1970, 84 Stat. 1238.)

AMENDMENTS

1970—Subsecs. (a), (b). Pub. L. 91-513 inserted references to persons with drug abuse and drug dependence problems.

Subsec. (b). Pub. L. 91-211 added provision increasing percentage of grant in relation to total cost of any project under this section to 90 percent of cost of the project in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 302 of Pub. L. 91-211 provided in part that the amendment of subsec. (b) of this section by section 302 of Pub. L. 91-211 is effective with respect to projects under part C or part D of this subchapter approved after June 30, 1970.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90-574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90-574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and, Welfare, see section 507 of Pub. L. 90-574, set out as a note under section 299a of this title.

§ 2688l. Grants to public or nonprofit private agencies for developing specialized training programs, training personnel, conducting surveys and field trials, and programs of special significance.

The Secretary is authorized, during the period beginning July 1, 1968, and ending with the close of June 30, 1973, to make grants to any public or nonprofit private agencies and organizations to cover part or all of the cost of (A) developing specialized training programs or materials relating to the provision of public health services for the prevention and treatment of narcotic addiction, drug abuse, and drug dependence, or developing in-service training or short-term or refresher courses with respect to the provision of such services; (B) training personnel to operate, supervise, and administer such services; (C) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of narcotic addiction, drug abuse, and drug dependence within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (D) programs for treatment and rehabilitation of narcotic addicts and other persons with drug abuse and drug dependence problems which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such narcotic addicts and other persons with drug abuse and drug dependence problems. (Pub. L. 88-164, title II, § 252, as added Pub. L. 90-574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and amended Pub. L. 91-211, title V, § 502, Mar. 13, 1970, 84 Stat. 59; Pub. L. 91-513, title I, § 1(a)(1), (2), Oct. 27, 1970, 84 Stat. 1238.)

AMENDMENTS

1970—Pub. L. 91-513 inserted references to drug abuse and drug dependence and to persons with drug abuse and drug dependence problems.

Pub. L. 91-211, substituted "1973" for "1970" and added provision authorizing grants for programs for treatment and rehabilitation of narcotic addicts which the Secretary determines are of special significance.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90-574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90-574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90-574, set out as a note under section 299a of this title.

§ 2688l-1. Drug abuse education.

(a) Grants; contract authority.

The Secretary is authorized to make grants to States and political subdivisions thereof and to public or nonprofit private agencies and organizations, and to enter into contracts with other private agencies and organizations, for—

(1) the collection, preparation, and dissemination of educational materials dealing with the use

and abuse of drugs and the prevention of drug abuse, and

(2) the development and evaluation of programs of drug abuse education directed at the general public, school-age children, and special high-risk groups.

(b) Functions of Secretary of Health, Education, and Welfare.

The Secretary, acting through the National Institute of Mental Health, shall (1) serve as a focal point for the collection and dissemination of information related to drug abuse; (2) collect, prepare, and disseminate materals (including films and other educational devices) dealing with the abuse of drugs and the prevention of drug abuse; (3) provide for the preparation, production, and conduct of programs of public education (including those using films and other educational devices); (4) train professional and other persons to organize and participate in programs of public education in relation to drug abuse; (5) coordinate activities carried on by such departments, agencies, and instrumentalities of the Federal Government as he shall designate with respect to health education aspects of drug abuse; (6) provide technical assistance to State and local health and educational agencies with respect to the establishment and implementation of programs and procedures for public education on drug abuse; and (7) undertake other activities essential to a national program for drug abuse education.

(c) Personnel training.

The Secretary, acting through the National Institute of Mental Health, is authorized to develop and conduct workshops, institutes, and other activities for the training of professional and other personnel to work in the area of drug abuse education.

(d) Authorization of appropriations.

To carry out the purposes of this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, and $14,000,000 for the fiscal year ending June 30, 1973. (Pub. L. 88–164, title II, § 253, as added Pub. L. 91–513, title I, § 1(c), Oct. 27, 1970, 84 Stat. 1238.)

§ 2688m. Eligibility of projects for grants for construction or initial staffing of facilities.

Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the treatment of narcotic addicts and other persons with drug abuse and drug dependence problems. (Pub. L. 88–164, title II, § 254, formerly § 253, as added Pub. L. 90–574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and renumbered and amended Pub. L. 91–513, title I, § 1(a)(1), (c), Oct. 27, 1970, 84 Stat. 1238.)

AMENDMENTS

1970—Pub. L. 91–513, § 1(a)(1), inserted reference to persons with drug abuse and drug dependence problems.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

§ 2688n. Manner of payment of grants.

Payments under this part may be made in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine. (Pub. L. 88–164, title II, § 255, formerly § 254, as added Pub. L. 90–574, title III, § 302, Oct. 15, 1968, 82 Stat. 1010, and renumbered Pub. L. 91–513, title I, § 1(c), Oct. 27, 1970, 84 Stat. 1238.)

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

§ 2688n–1. Special projects for narcotic addicts and drug dependent persons.

(a) Grants for treatment or rehabilitation.

The Secretary is authorized to make grants to public or nonprofit private agencies and organizations to cover a portion of the costs of programs for treatment and rehabilitation of narcotic addicts or drug dependent persons which include one or more of the following: (1) Detoxification services or (2) institutional services (including medical, psychological, educational, or counseling services) or (3) community-based aftercare services.

(b) Grant conditions and limitations.

Grants under this section for the costs of any treatment and rehabilitation program—

(1) may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and

(2)(A) except as provided in subparagraph (B), may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day; and

(B) in the case of any such program providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

(c) State agencies; coordination with existing facilities.

No application for a grant authorized by this section shall be approved by the Secretary unless such application is forwarded through the State agency responsible for administering the plan submitted

pursuant to section 2684 of this title or, if there be a separate State agency, designated by the Governor as responsible for planning, coordinating, and executing the State's efforts in the treatment and rehabilitation of narcotic addicts and drug dependent persons, through such latter agency, which shall submit to the Secretary such comments as it deems appropriate. No application for a grant under this section for a program to provide services for persons in an area in which is located a facility constructed as a new facility after October 27, 1970, with funds provided under a grant under part A or this part shall be approved unless such application contains satisfactory assurance that, to the extent feasible, such program will be included as part of the programs conducted in or through such facility.

(d) Criteria.

The Secretary shall make grants under this section for projects within the States in accordance with criteria determined by him designed to provide priority for grant applications in States, and in areas within the States, having the higher percentages of population who are narcotic addicts or drug dependent persons.

(e) Authorization of appropriations.

There are authorized to be appropriated to carry out this section not to exceed $20,000,000 for the fiscal year ending June 30, 1971; $30,000,000 for the fiscal year ending June 30, 1972; and $35,000,000 for the fiscal year ending June 30, 1973. (Pub. L. 88–164, title II, § 256, as added Pub. L. 91–513, title I, § 1(d), Oct. 27, 1970, 84 Stat. 1239.)

PART E.—GENERAL PROVISIONS

§ 2688*o*. Authorization of appropriations.

(a) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, and $80,000,000 for the fiscal year ending June 30, 1973, for project grants for construction and staffing of facilities for the prevention and treatment of alcoholism under part C or the prevention and treatment of narcotic addiction, drug abuse, and drug dependence under part D and for grants under sections 2688*l* and 2688j–1 of this title. Sums so appropriated for any fiscal year shall remain available for obligation until the close of the next fiscal year.

(b) There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next nine fiscal years such sums as may be necessary to continue to make grants for staffing with respect to any project under part C or D for which a staffing grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1973.

(c) Not to exceed 5 per centum of the amount appropriated pursuant to the preceding provisions of this section for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of projects for assessing local needs for programs of services for alcoholics or narcotic addicts and other persons with drug abuse and drug dependence problems, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvement in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project. (Pub. L. 88–164, title II, § 261, as added Pub. L. 90–574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1010, and amended Pub. L. 91–211, title III, § 301, Mar. 13, 1970, 84 Stat. 57; Pub. L. 91–513, title I, § 1(b)(1)–(3), Oct. 27, 1970, 84 Stat. 1238.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513, § 1(b)(1), (2), added provisions authorized appropriations of $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, and $80,000,000 for the fiscal year ending June 30, 1973, and inserted reference to the treatment and prevention of drug abuse and drug dependence.

Pub. L. 91–211, § 301(a), (b), substituted "$15,000,000 for the fiscal year ending June 30, 1970, $30,000,000 for the fiscal year ending June 30, 1971, $35,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973," for "and $25,000,000 for the next fiscal year" and added reference to section 2688j–1 of this title.

Subsec. (b). Pub. L. 91–211, § 301(d), substituted "nine" for "three" and "for any fiscal year ending before July 1, 1973" for "for the fiscal year ending June 30, 1969, or the fiscal year ending June 30, 1970".

Subsec. (c). Pub. L. 91–513, § 1(b)(3), inserted reference to persons with drug abuse and drug dependence problems.

Pub. L. 91–211, § 301(c), added subsec. (c).

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of this section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2688f, 2688g, 2688k of this title.

§ 2688p. Repealed. Pub. L. 91–296, title IV, § 401(b)(2), June 30, 1970, 84 Stat. 352.

Section, Pub. L. 88–164, title II, § 262, as added Pub. L. 90–574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1010, authorized the use of up to 1 per centum of appropriated funds by the Secretary for evaluation of the programs authorized by this subchapter.

EFFECTIVE DATE OF REPEAL

Section 401(b) of Pub. L. 91–296 provided in part that the amendment by section 401(b)(2) of Pub. L. [repealing the section] would be effective with respect to appropriations for fiscal years beginning after June 30, 1970.

§ 2688q. Consent of alcoholics, narcotic addicts, and other persons with drug abuse and drug dependence problems to be subjects of research.

In making grants to carry out the purposes of parts C and D, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research which is carried out (in whole or in part) with funds provided from appropriations under this part unless such individual

explicitly agrees to become a subject of such research. (Pub. L. 88–164, title II, § 263, as added Pub. L. 90–574, title III, § 303(a), Oct. 15, 1968, 82 Stat. 1011.)

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2688k of this title.

§ 2688r. Grants for consultation services.

(a) Additional grants.

In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts and other persons with drug abuse and drug dependence problems, or facility for mental health of children, to which a grant under part B, C, D, or F of this subchapter, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1970, to assist it in meeting a portion of the costs of compensation of professional and technical personnel who provide consultation services, the Secretary may, with respect to such center or facility, make a grant under this section in addition to such other staffing grant for such center or facility.

(b) Duration of grant; limitation on Federal share of costs.

A grant under subsection (a) of this section with respect to a center or facility referred to in that subsection—

(1) may be made only for the period applicable to the staffing grant made under part B, C, D, or F of this subchapter, as the case may be, with respect to such center or facility, and

(2) may not exceed whichever of the following is the lower: (A) 15 per centum of the costs with respect to which such other staffing grant is made, or (B) that percentage of such costs which when added to the percentage of such costs covered by such other staffing grant equals 100 per centum.

(c) Authorization of appropriations.

For purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the next eight fiscal years such sums as may be necessary to continue to make grants under this section for projects which received initial grants under this section from appropriations authorized for any fiscal year ending before July 1, 1973. (Pub. L. 88–164, title II, § 264, as added Pub. L. 91–211, title V, § 501, Mar. 13, 1970, 84 Stat. 61, and amended Pub. L. 91–513, title I, § 1(b)(3), Oct. 27, 1970, 84 Stat. 1238.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–513 inserted reference to persons with drug abuse and drug dependence problems.

§ 2688s. Definitions.

For purposes of this subchapter, the term "technical personnel" includes accountants, financial counselors, medical transcribers, allied health professions personnel, dietary and culinary personnel, and any other personnel whose background and education would indicate that they are to perform technical functions in the operation of centers or facilities for which assistance is provided under this subchapter; but such term does not include minor clerical personnel or maintenance or housekeeping personnel. (Pub. L. 88–164, title II, § 265, as added Pub. L. 91–211, title V, § 502, Mar. 13, 1970, 84 Stat. 62.)

§ 2688t. Approval by National Advisory Mental Health Council.

Grants made under this subchapter (other than part C thereof) for the cost of construction and for the cost of compensation of professional and technical personnel may be made only upon recommendation of the National Advisory Mental Health Council established by section 218(a) of this title. Grants under part C of this subchapter for such costs may be made only upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism established by such section. (Pub. L. 88–164, title II, § 266, as added Pub. L. 91–211, title V, § 503(a), Mar. 13, 1970, 84 Stat. 62, and amended Pub. L. 91–616, title IV, § 402, Dec. 31, 1970, 84 Stat. 1854.)

AMENDMENTS

1970—Pub. L. 91–616 added provision for grants under Part C upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism.

EFFECTIVE DATE

Section 503(b) of Pub. L. 91–211 provided that: "The amendment made by subsection (a) [enacting this section] shall apply with respect to grants initially made under the Community Mental Health Centers Act [this subchapter] from appropriations made for fiscal years beginning after June 30, 1970."

PART F.—MENTAL HEALTH OF CHILDREN

§ 2688u. Grants for treatment facilities.

(a) Grants for construction and compensation of professional and technical personnel.

Grants from appropriations under subsection (d) of this section may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of construction of facilities to provide mental health services for children within the States, and (2) to assist them in meeting a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the operation of a facility for mental health of children constructed with a grant made under part A of this subchapter or this part or for the operation of new services for mental health of children in an existing facility.

(b) Conditions for approval of grants; limitation on Federal share of costs for construction.

(1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center

providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of children.

(2) No grant shall be made under this section with respect to any facility unless the applicant for such grant provides assurances satisfactory to the Secretary that such facility will make available a full range of treatment, liaison, and follow-up, services (as prescribed by the Secretary) for all children and their families in the service area of such facility who need such services, and will, when so requested, provide consultation and education for personnel of all schools and other community agencies serving children in such area.

(3) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part 3 of this subchapter, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

(c) Limitation on Federal share of costs for compensation of professional and technical personnel.

Grants made under this section for costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 2688g of this title.

(d) Authorization of appropriations.

(1) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for grants under this part for construction and for initial grants under this part for compensation of professional and technical personnel, and for training and evaluation grants under section 2688v of this title.

(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and each of the next eight fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which an initial staffing grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1973. (Pub. L. 88–164, title II, § 271, as added Pub. L. 91–211, title IV, § 401, Mar. 13, 1970, 84 Stat. 60.)

CODIFICATION

"Section 272(a)", for purposes of codification, has been editorially translated as "subsection (d) of this section" in subsec.(a) as the probable intent of Congress.

§ 2688v. Grants to public or nonprofit private agencies for developing specialized training programs, training personnel, and conducting surveys and field trials.

The Secretary is authorized, during the period beginning July 1, 1971, and ending with the close of June 30, 1973, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of children, or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of children within the several States with a view to determining ways and means of improving, extending, and expanding such programs. (Pub. L. 88–164, title II, § 272, as added Pub. L. 91–211, title IV, § 401, Mar. 13, 1970, 84 Stat. 61.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2688u of this title.

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 2691. Definitions; Federal percentages; promulgation of percentages.

For purposes of this chapter—

(a) The term "State" includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(b) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

(c) The term "community mental health center" means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated.

(d) The terms "nonprofit facility for persons with development disabilities," "nonprofit community mental health center", and "nonprofit private institution of higher learning" mean, respectively, a facility for the persons with developmental disabilities, a community mental health center, and an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(e) The term "construction" includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of off-site improvements and the cost of the acquisition of land.

(f) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.

(g) The term "title", when used with reference to a site for a project, means a fee simple, or such other

estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(h)(1) The term "Federal share" with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government under subchapter II of this chapter or part A of subchapter III of this chapter.

(2) The Federal share with respect to any project in the State shall be the amount determined by the appropriate State agency designated in the State plan, but, except as provided in paragraph (3), the Federal share may not exceed 66⅔ per centum of the cost of construction of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

(3) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under subchapter II of this chapter or part A of subchapter III of this chapter, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of construction of the project.

(i) The Federal percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that the Federal percentage for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66⅔ per centum.

(j)(1) The Federal percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation; except that the Secretary shall promulgate such percentages as soon as possible after October 31, 1963, which promulgation shall be conclusive for the fiscal year ending June 30, 1965.

(2) The term "United States" means (but only for purposes of this subsection and subsection (i) of this section) the fifty States and the District of Columbia.

(k) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(*l*) The term "developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual

(m) The term "services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and such term includes diagnosis, evaluation, treatment, personal care, daycare, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(n) The term "regulations" means (unless the text otherwise indicates) regulations promulgated by the Secretary. (Pub. L. 88-164, title IV, § 401, Oct. 31, 1963, 77 Stat 296; Pub L. 90-31, § 4(a), June 24, 1967, 81 Stat. 79; Pub. L. 91-211, title I, §§ 102(b), 104, 105, Mar. 13, 1970, 84 Stat. 54-56; Pub. L. 91-517, title I, § 102(a), Oct 30, 1970, 84 Stat. 1324.)

REFERENCES IN TEXT

The words in the introductory phrase, "this chapter", read in the original "this Act", meaning Pub. L. 88-164, which enacted this chapter, sections 295—295e of this title and section 618 of Title 20, Education, amended section 291k of this title and sections 611—613, 617, 676 of Title 20, and enacted provisions set out as notes under section 291k of this title and section 611 of Title 20.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-517, § 102(a)(1), substituted "the Trust Territory of the Pacific Islands," for "for the purposes of this subchapter and subchapter III of this chapter only, includes the Trust Territory of the Pacific Islands".

Pub. L. 21-211, § 102(b), included the Trust Territory of the Pacific Islands within the definition of "State" for the purposes of this subchapter and subchapter III of this chapter.

Subsec. (b). Pub. L. 91-517, § 102(a)(2), substituted definition of "facility for persons with developmental disabilities" for definition of "facility for the mentally retarded" which was defined as a facility designed for diagnosis, treatment, education, training, or custodial care of the mentally retarded, and including facilities for training specialists and providing workshops, but only if such workshops were part of the facilities providing comprehensive services for the mentally retarded.

Subsec. (d). Pub. L. 91-517, § 102(a)(3), substituted "persons with developmental disabilities" for "the mentally retarded" in two places.

Subsec. (h). Pub. L. 91-211, § 104, struck out the minimum Federal share of one-third of construction cost, retained the two-thirds maximum Federal share of construction cost, and provided that the Federal share

may go as high as 90 percent in poverty areas as defined by the Secretary.

Subsec. (h)(2). Pub. L. 91–517, § 102(a)(4), made reference to the appropriate State agency designated in the State plan as the State agency determining the Federal share with respect to any project in the State, and provided that the Federal share for any project under subchapter II of this chapter or part A of subchapter III of this chapter may not exceed 66 and two-thirds percent of the construction costs except in the case of a poverty area as provided in par. (3).

Subsec. (j)(1). Pub. L. 91–211, § 105, substituted "September 30" for "August 31".

Subsecs. (*l*)–(n). Pub. L. 91–517, § 102(a)(5), added subsecs. (*l*)–(n).

1967—Subsec. (e). Pub. L. 90–31 added acquisition of existing buildings to the enumerated list of activities included under the term construction.

EFFECTIVE DATE OF 1970 AMENDMENTS

Amendment by Pub. L. 91–517 applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under subchapter II of this chapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

Amendment of section by section 102(b) of Pub. L. 91–211 effective with respect to allotments under section 2682 of this title from funds appropriated for fiscal years beginning after June 30, 1970, see section 102(c) of Pub. L. 91–211, set out as a note under section 2682 of this title.

Section 104 of Pub. L. 91–211 provided in part that the amendment of subsec. (h) of this section by section 104 of Pub. L. 91–211 is effective with respect to projects under subchapter II of this chapter or part A of subchapter III of this chapter approved after June 30, 1970.

§ 2692. Repealed. Pub. L. 91–211, title I, § 104, Mar. 13, 1970, 84 Stat. 55.

Section, Pub. L. 88–164, title IV, § 402, Oct. 31, 1963, 77 Stat. 297; Pub. L. 89–105, § 2(a), Aug. 4, 1965, 79 Stat. 427, provided for State standards for variable Federal share of cost.

EFFECTIVE DATE OF REPEAL

Section 104 of Pub. L. 91–211 provided in part that repeal of this section shall be effective with respect to projects under subchapter II of this chapter or part A of subchapter III of this chapter approved after June 30, 1970.

§ 2693. Payments for construction.

(a) Installments; payments to applicants; withholding of payments; maximum amounts.

Upon certification to the Secretary by the State agency, designated as provided in section 2674 of this title in the case of a facility for the mentally retarded or persons with other developmental disabilities or section 2684 of this title in the case of a community mental health center, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 2676 of this title or section 2686 of this title, as the case may be, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) Amendment of application; revision of estimate.

In case an amendment to an approved application is approved as provided in section 2675 or 2685 of this title or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) Use of allotments for cost of administration; limitation on amount.

(1) At the request of any State, a portion of any allotment or allotments of such State under part A of subchapter III of this chapter for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under such part; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Amounts made available to any State under this paragraph from its allotment or allotments under part A of subchapter III of this chapter for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under such part A not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968. (Pub. L. 88–164, title IV, § 403, Oct. 31, 1963, 77 Stat. 297; Pub. L. 90–574, title V, § 502, Oct. 15, 1968, 82 Stat. 1012; Pub. L. 91–211, title I, § 103, Mar. 13, 1970, 84 Stat. 55; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1324.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–517 added "or persons with older developmental disabilities" after "mentally retarded".

Subsec. (c)(1). Pub. L. 91–211 changed the ceiling on the portion of a State's allotment for construction grants under part A of subchapter III of this chapter that could be used for State plan administration by substituting the lesser of 5 percent of the State's allotment or $50,000 for the lesser of 2 percent of such allotment or $50,000 and provided that the amount available for State plan administration would be available in the year following the year of allotment as well as in the year of allotment itself.

1968—Subsec. (c). Pub. L. 90–574 added subsec. (c):

EFFECTIVE DATE OF 1970 AMENDMENTS

Amendment by Pub. L. 91–517 applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under subchapter II of this chapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of

Pub. L. 91–517, set out as a note under section 2670 of this title.

Section 103(a) of Pub. L. 91–211 provided in part that the increase by section 103(a) of Pub. L. 91–211 of the per centum figure from 2 per centum to 5 per centum with respect to administration expenditures referred to in subsec. (c)(1) of this section effective only with respect to expenditures made after June 30, 1970.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

USE OF "SECRETARY" TO MEAN SECRETARY OF HEALTH, EDUCATION, AND WELFARE

"Secretary" as Secretary of Health, Education, and Welfare in the amendments made by Pub. L. 90–574, see section 507 of Pub. L. 90–574, set out as a note under section 299a of this title.

§ 2694. Appeals; petition; record; jurisdiction of courts of appeals; conclusiveness of findings; review by Supreme Court; stay of administrative action.

If the Secretary refuses to approve any application for a project submitted under section 2675 or 2685 of this title, the State agency through which such application was submitted or, if any State is dissatisfied with his action under section 2674(c) or 2684(b) of this title or section 2676 or 2686 of this title, such State, may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action. (Pub. L. 88–164, title IV, § 404, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, § 102(c), Oct. 30, 1970, 84 Stat. 1325.)

AMENDMENTS

1970—Pub. L. 91–517 substituted "section 2674(c)" for "section 2674(b)".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–517 applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under subchapter II of this chapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

§ 2695. Recovery of expenditures under certain conditions.

If any facility or center with respect to which funds have been paid under section 2693 of this title shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization (A) which is not qualified to file an application under section 2675 or 2685 of this title, or (B) which is not approved as a transferee by the State agency designated pursuant to section 2674 of this title (in the case of a facility for the mentally retarded or persons with other developmental disabilities) or section 2684 of this title (in case of a community mental health center), or its successor; or

(2) cease to be a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities or community mental health center, as the case may be, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities or such center as a community mental health center,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility or center which has ceased to be public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities or community mental health center, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment. (Pub. L. 88–164, title IV, § 405, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325.)

AMENDMENTS

1970—Pub. L. 91–517 added "or persons with other developmental disabilities" after "mentally retarded" in four places.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–517 applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under subchapter II of this chapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91–517, set out as a note under section 2670 of this title.

§ 2696. State control of operations.

Except as otherwise specifically provided, nothing in this chapter shall be construed as conferring on

any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for the mentally retarded or persons with other developmental disabilities or community mental health center with respect to which any funds have been or may be expended under this chapter. (Pub. L. 88-164, title IV, § 406, Oct. 31, 1963, 77 Stat. 299; Pub. L. 91-517, title I, § 102(b), Oct. 30, 1970, 84 Stat. 1325.)

REFERENCES IN TEXT

The words, "this chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 88-164, which enacted this chapter, sections 295—295e of this title and section 618 of Title 20, Education, amended section 291k of this title and sections 611—613, 617, 676 of Title 20, and enacted provisions set out as notes under section 291k of this title and section 611 of Title 20.

AMENDMENTS

1970—Pub. L. 91-517 added "or persons with other developmental disabilities" after "mentally retarded".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-517 applicable with respect to fiscal years beginning after June 30, 1970, with funds appropriated before June 30, 1970 under subchapter II of this chapter to remain available for obligation during the fiscal year ending June 30, 1971, see section 103 of Pub. L. 91-517, set out as a note under section 2670 of this title.

§ 2697. Records and audit.

(a) Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this chapter. (Pub. L. 88-164, title IV, § 408, as added Pub. L. 89-105, § 3, Aug. 4, 1965, 79 Stat. 429.)

REFERENCES IN TEXT

The words, "this chapter", referred to in subsecs. (a) and (b) of this section, read in the original "this Act", meaning Pub. L. 88-164, which enacted this chapter, sections 295—295e of this title and section 618 of Title 20, Education, amended section 291k of this title and sections 611—613, 617, 676 of Title 20, and enacted provisions set out as notes under section 291k of this title and section 611 of Title 20.

§ 2697a. Determination of amount of grant; exclusion of duplicated grants.

In determining the amount of any grant under this chapter for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant. (Pub. L. 88-164, title IV, § 409, as added Pub. L. 90-574, title III, § 304, Oct. 15, 1968, 82 Stat. 1011.)

REFERENCES IN TEXT

The words, "this chapter", referred to in text, read in the original "this Act", meaning Pub. L. 88-161, which enacted this chapter, sections 295—295e of this title and section 618 of Title 20, Education, amended section 291k of this title and sections 611, 613, 617, 676 of Title 20, and enacted provisions set out as notes under section 291k of this title and section 611 of Title 20.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90-574, which enacted this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90-574, set out as a note under section 1781 of Title 38.

§ 2697b. Determination of poverty area.

For purposes of any determination by the Secretary under this chapter as to whether any urban or rural area is a poverty area, any such area which would not otherwise be determined to be a poverty area shall, nevertheless, be deemed to be a poverty area if—

(1) such area contains one or more subareas which are characterized as subareas of poverty;

(2) the population of such subarea or subareas constitutes a significant portion of the population of such rural or urban area; and

(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas.

(Pub. L. 88-164, title IV, § 410, as added Pub. L. 91-211, title V, § 504, Mar. 13, 1970, 84 Stat. 62.)

REFERENCES IN TEXT

"This chapter" referred to in text, read in the original "this Act", meaning Pub. L. 88-164, which enacted this chapter. See Short Title note under section 2661 of this title.

SUBCHAPTER V.—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

§§ 2698 to 2698b. Repealed. Pub. L. 91-230, title VI, § 662(4), April 13, 1970, 84 Stat. 188.

Sections 2698 to 2698b, Pub. L. 88-164, title V, §§ 501-503, as added Pub. L. 90-170, § 7, Dec. 4, 1967, 81 Stat. 530, 531, authorized grants for training of personnel and appropriations therefor; authorized grants for research and demonstration projects and appropriations therefor, payments, and evaluation of projects; and provided for appointment of an advisory committee and compensation and travel expenses of the members, respectively.

Such former provisions are now covered by various sections of Title 20, Education, as follows:

Former sections	*Title 20 sections*
2698(a)	1434
2698(b)	1436
2698a(a)(1)	1442, 1444
2698a(a)(2)	1232d
2698a(b)	1443
2698b(a)	See 1233a, 1403
2698b(b)	1233c

EFFECTIVE DATE OF REPEAL

Sections repealed effective July 1, 1971, see provisions of section 662 of Pub. L. 91-230, set out in part as a note under former sections 611 to 618 of Title 20, Education.

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2715. Reasonable likelihood of successful participation by enrollees; probation and parole.
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(f) Age quotas in youth work and training programs.
2742. Program participants.
2743. Elderly persons; programs; staff.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3103 of this title and in title 15 section 692.

§ 2701. Congressional findings and declaration of purpose.

Although the economic well-being and prosperity of the United States have progressed to a level surpassing any achieved in world history, and although these benefits are widely shared throughout the Nation, poverty continues to be the lot of a substantial number of our people. The United States can achieve its full economic and social potential as a nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society. It is, therefore, the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity. It is the purpose of this chapter to strengthen, supplement, and coordinate efforts in furtherance of that policy.

It is the sense of the Congress that it is highly desirable to employ the resources of the private sector of the economy of the United States in all such efforts to further the policy of this chapter, (Pub. L. 88–452, § 2, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89–794, title VI, § 614(b), Nov. 8, 1966, 80 Stat. 1472.)

AMENDMENTS

1966—Pub. L. 89–794 inserted provisions stating that it is the sense of Congress that it is highly desirable to employ the resources of the private sector of the economy of the United States in all such efforts to further the policy of this chapter.

SHORT TITLE OF 1969 AMENDMENT

Section 1 of Pub. L. 91–177, Dec. 30, 1969, 83 Stat. 827, provided: 'That this Act [enacting sections 2702a, 2704, 2705, and 2769–2769f of this title, amending sections 2771, 2809, 2834, 2837, 2851, 2871, 2907, 2933, 2949, 2965, 2966, 2994b, and 2994d of this title, and section 8332 of Title 5, and enacting provisions set out as notes under this section and sections 2809, 2834, 2971a and 2994b of this title] may be cited as the 'Economic Opportunity Amendments of 1969'."

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89–794 provided: "That this Act [enacting sections 2610c, 2721, 2722, 2762, 2771, 2792, 2793, 2794, 2924, 2925, 2951, 2968, 2969, 2970, and 2991—2991e of this title, amending this section, sections 2581, 2583, 2713, 2714, 2716, 2732, 2733, 2734, 2735, 2761, 2782, 2783, 2785, 2786, 2787, 2788, 2802, 2821, 2831, 2851, 2854, 2871, 2881, 2902, 2905, 2906, 2907, 2921, 2922, 2923, 2941, 2942, 2943, 2944, 2945, 2946, 2950, 2961, 2963, 2965, 2966, 2981, and 3161 of this title, and sections 425 and 1077 of Title 20, Education, repealing sections 2731, 2903, and 2904 of this title, and enacting provisions set out as notes under this section and section 2981 of this title and section 425 of Title 20, Education] may be cited as the 'Economic Opportunity Amendments of 1966'."

SHORT TITLE

Section 1 of Pub. L. 88–452 provided: "That this Act [enacting this chapter] may be cited as the 'Economic Opportunity Act of 1964'."

EX. ORD. NO. 11470. ARRANGEMENTS FOR STRUCTURE AND CONDUCT OF NATIONAL PROGRAM FOR VOLUNTARY ACTION

Ex. Ord. No. 11470, May 26, 1969, 34 F.R. 8227, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *The national voluntary action program.* There shall be undertaken within the executive branch of the government, as provided in this order, a national voluntary action program to encourage and stimulate more widespread and effective voluntary action for solving public domestic problems. That program shall supplement corresponding action by private and other non-Federal organizations. As used in this order, the term "voluntary action" means the contribution or application of non-governmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens. Such contributions or applications of resources are deemed "voluntary" to the extent they are made without legal compulsion or compensation.

SEC. 2. *Cabinet Committee on Voluntary Action.* (a) There is hereby established a Cabinet Committee on Voluntary Action (hereinafter referred to as "the Committee").

(b) The Committee shall be composed of the following:

The Secretary of Housing and Urban Development (hereinafter referred to as "the Secretary")
The Attorney General
Secretary of Agriculture
Secretary of Commerce
Secretary of Labor
Secretary of Health, Education, and Welfare
Director of the Office of Economic Opportunity and such other heads of departments and agencies as the President may from time to time direct.

(c) The Secretary shall be the Chairman of the Committee.

SEC. 3. *Functions of the Committee.* The Committee shall advise and assist the President with respect to the national voluntary action program and shall perform such other duties as the President may from time to time prescribe. In addition to such duties, the Committee is directed to:

(a) Foster cooperation among the various departments and agencies on programs related to voluntary action.

(b) Promote more widespread reliance on and recognition of voluntary activities.

(c) Provide a focal point through which voluntary organizations can better make their needs and concerns known to the Federal Government.

(d) Advise and participate in the development of new Federal initiatives for encouraging voluntary action.

SEC. 4. *Functions of Secretary of Housing and Urban Development.* The Secretary shall:

(a) Encourage the development and implementation of Federal and non-Federal voluntary activities directed toward the solution or mitigation of problems associated with conditions of urban living or with poverty.

(b) Provide for the development and operation of a clearinghouse for information on private voluntary action, and on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs dealing with problems of urban living

or poverty, and coordinate, as consistent with law, Federal activities involving such action.

(d) Cooperate with private organizations in their efforts to stimulate more widespread and effective private voluntary action for attacking problems of urban living or poverty.

(e) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative private voluntary action programs directed toward problems associated with conditions of urban living or poverty.

(f) Perform such other duties with respect to the voluntary action program as the Secretary deems advisable.

SEC. 5. *Responsibilities of departments and agencies.* (a) The head of each Federal department and agency, or a representative designated by him, when so requested by the Secretary, shall, to the extent of authority and available funds, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this order.

(b) The head of each Federal department or agency shall, when so requested by the Secretary, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

(c) The head of each Federal department or agency, or his designated representative, shall keep the Secretary informed of all proposed budgets, plans, and programs of his department or agency affecting the voluntary action program.

SEC. 6. *Construction.* Nothing in this order shall be construed as subjecting any department, establishment, or other intsrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

RICHARD NIXON

§ 2702. Authorization of appropriations.

For the purpose of carrying out programs under this chapter, (other than part C of subchapter I of this chapter), there is hereby authorized to be appropriated for the fiscal year ending June 30, 1968, the sum of $1,980,000,000, of which, subject to the provisions of section 2966 of this title, the amounts appropriated or made available by appropriation Act shall not exceed $295,000,000 for the purpose of carrying out the provisions of part A of subchapter I of this chapter, $476,000,000 for the purpose of carrying out part B of subchapter I of this chapter, $60,000,000 for the purpose of carrying out part D of subchapter I of this chapter, $950,000,000 for the purpose of carrying out subchapter II of this chapter, $20,000,000 for the purpose of carrying out part A of subchapter III of this chapter, $27,000,000 for the purpose of carrying out part B of subchapter III of this chapter, $10,000,000 for the purpose of carrying out section 2906b of this title, $70,000,000 for the purpose of carrying out part A of subchapter V of this chapter, $25,000,000 for the purpose of carrying out part B of subchapter V of this chapter, $16,000,000 for the purpose of carrying out subchapter VI of this chapter, and $31,000,000 for the purpose of carrying out subchapter VIII of this chapter, and there is authorized to be appropriated $2,180,000,000 for the fiscal year ending June 30, 1969. (Pub. L. 90–222, § 2, Dec. 23, 1967, 81 Stat. 672.)

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1967 and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

INVESTIGATION AND EVALUATION OF ECONOMIC OPPORTUNITY PROGRAMS BY THE COMPTROLLER GENERAL; SUBMISSION OF FINAL REPORT BY DEC. 1, 1968.

Title II of Pub. L. 90–222 authorized the Comptroller General of the United States to make an investigation in sufficient depth of programs and activities financed in whole or in part by funds authorized under section 2702 of this title in order to determine the efficiency of the administration of such programs and activities by the Office of Economic Opportunity and by local public and private agencies carrying out such programs and activities, and the extent to which such programs and activities achieve the objectives set forth in the relevant part or title of this chapter which authorizes such programs or activities, and to transmit his final report to the Congress not later than December 1, 1968 containing a detailed statement of his findings and conclusions together with such recommendations, including recommendations for additional legislation as he deemed advisable.

ACCESS OF GENERAL ACCOUNTING OFFICE TO GRANTEE'S RECORDS

Section 301 of Pub. L. 91–617, title III, Jan. 1, 1971, 84 Stat. 2018, provided in part that: "All grant agreements shall provide that the General Accounting Office shall have access to the records of the grantee which bear exclusively upon the Federal grant."

Similar provisions were contained in Pub. L. 91–204, title III, § 301, Mar. 5, 1970, 84 Stat. 46.

§ 2702a. Authorization of appropriations.

(a) For the purpose of carrying out this chapter, there are hereby authorized to be appropriated $2,195,500,000 for the fiscal year ending June 30, 1970, and $2,295,500,000 for the fiscal year ending June 30, 1971.

(b) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, of the amounts appropriated pursuant to subsection (a) of this section for the fiscal year ending June 30, 1970, and for the next fiscal year, the Director shall for each such fiscal year reserve and make available not less than $328,900,000 for the purpose of local initiative programs authorized under section 2808 of this title, and the remainder of such amounts shall be allocated, subject to the provisions of section 2966 of this title, in such a manner that of such remaining amounts so appropriated for each fiscal year—

(1) $890,300,000 shall be for the purpose of carrying out parts A and B of subchapter I of this chapter (relating to work and training programs);

(2) $46,000,000 shall be for the purpose of carrying out part D of subchapter I of this chapter (relating to special impact programs);

(3) $20,000,000 shall be for the purpose of carrying out part E of subchapter I of this chapter (relating to special work and career development programs);

(4) $811,300,000 shall be for the purpose of carrying out subchapter II of this chapter, of which $398,000,000 shall be for the Project Headstart program described in section 2809(a)(1) of this title, $90,000,000 shall be for the Follow Through program described in section 2809(a)(2) of this title, $58,000,000 shall be for the Legal Services program described in section 2809(a)(3)

of this title, $80,000,000 shall be for the Comprehensive Health Services program described in section 2809(a)(4) of this title, $62,500,000 shall be for the Emergency Food and Medical Services program described in section 2809(a)(5) of this title, $15,000,000 shall be for the Family Planning program described in section 2809(a)(6) of this title, and $8,800,000 shall be for the Senior Opportunities and Services program described in section 2809(a)(7) of this title;

(5) $12,000,000 shall be for the purpose of carrying out part A of subchapter III of this chapter (relating to rural loans);

(6) $34,000,000 shall be for the purpose of carrying out part B of subchapter III of this chapter (relating to assistance for migrant and seasonal farmworkers);

(7) $16,000,000 shall be for the purpose of carrying out subchapter VI of this chapter (relating to administration and coordination); and

(8) $37,000,000 shall be for the purpose of carrying out subchapter VIII of this chapter (relating to VISTA).

If the amounts appropriated pursuant to subsection (a) of this section for any fiscal year are not sufficient to allocate the full amounts specified for each of the purposes set forth in clauses (1) through (8) of this subsection, then the amounts specified in each such clause shall be prorated to determine the allocations required for each such purpose.

(c) In addition to the amounts authorized to be appropriated pursuant to subsection (a) of this section, there are further authorized to be appropriated the following:

(1) $14,000,000 for the fiscal year ending June 30, 1971, to be used for the Special Impact programs described in part D of subchapter I of this chapter;

(2) $34,700,000 for the fiscal year ending June 30, 1971, to be used for the Special Work and Career Development programs described in part E of subchapter I of this chapter;

(3) $180,000,000 for the fiscal year ending June 30, 1971, to be used for the Project Headstart program described in section 2809(a)(1) of this title;

(4) $32,000,000 for the fiscal year ending June 30, 1971, to be used for the Legal Services program described in section 2809(a)(3) of this title;

(5) $80,000,000 for the fiscal year ending June 30, 1971, to be used for the Comprehensive Health Services program described in section 2809(a)(4) of this title;

(6) $112,500,000 for the fiscal year ending June 30, 1971, to be used for the Emergency Food and Medical Services program described in section 2809(a)(5) of this title.

(7) $15,000,000 for the fiscal year ending June 30, 1971, to be used for the Family Planning program described in section 2809(a)(6) of this title;

(8) $3,200,000 for the fiscal year ending June 30, 1971, to be used for the Senior Opportunities and Services program described in section 2809(a)(7) of this title;

(9) $15,000,000 for the fiscal year ending June 30, 1971, to be used for the program of assistance for migrant and seasonal farmworkers described in part B of subchapter III of this chapter; and

(10) $50,000,000 for the fiscal year ending June 30, 1971, to be used for Day Care projects described in part B of subchapter V of this chapter. (Pub. L. 91–177, title I, § 102, Dec. 30, 1969, 83 Stat. 827.)

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1969 and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

§ 2703. Criminal provisions.

(a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under this chapter embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this chapter, shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under this chapter induces any person to give up any money or thing of any value to any person (including such grantee agency), shall be fined not more than $1,000 or imprisoned not more than one year, or both. (Pub. L. 90–222, title III, § 301, Dec. 23, 1967, 81 Stat. 728.)

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1967 and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2704. Discontinued Job Corps centers; utilization for special youth programs.

(a) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity shall establish procedures and make arrangements which are designed to assure that facilities and equipment of Job Corps centers which are being discontinued will, where feasible, be made available for use by State or Federal agencies and other public or private agencies, institutions, and organizations with satisfactory arrangements for utilizing such facilities and equipment for conducting programs, especially those providing opportunities for low-income disadvantaged youth, including, without limitation—

(1) special remedial programs;

(2) summer youth programs;

(3) exemplary vocational preparation and training programs;

(4) cultural enrichment programs, including music, the arts, and the humanities;

(5) training programs designed to improve the qualifications of educational personnel, including

instructors in vocational educational programs; and

(6) youth conservation work and other conservation programs.

(b) To achieve the objectives of this section, the Director of the Office of Economic Opportunity shall consult with, elicit the cooperation of, and utilize the services of the Administrator of the General Services Administration, and the Secretaries of Agriculture, of the Interior, and of Labor. (Pub. L. 91–177, title I, § 113, Dec. 30, 1969, 83 Stat. 832.)

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1969 and not as part of the Economic Opportunity Act of 1964, which comprises this chapter.

§ 2705. Withholding of federal taxes by antipoverty agencies.

Upon notice from the Secretary of the Treasury or his delegate that any person otherwise entitled to receive a payment made pursuant to a grant, contract, agreement, loan or other assistance made or entered into under this chapter is delinquent in paying or depositing (1) the taxes imposed on such person under chapters 21 and 23 of the Internal Revenue Code of 1954, or (2) the taxes deducted and withheld by such person under chapters 21 and 24 of such Code, the Director of the Office of Economic Opportunity shall suspend such portion of such payment due to such person, which, if possible, is sufficient to satisfy such delinquency, and shall not make or enter into any new grant, contract, agreement, loan or other assistance under this chapter with such person until the Secretary of the Treasury or his delegate has notified him that such person is no longer delinquent in paying or depositing such tax or the Director of the Office of Economic Opportunity determines that adequate provision has been made for such payment. In order to effectuate the purpose of this section on a reasonable basis the Secretary of the Treasury and the Director of the Office of Economic Opportunity shall consult on a quarterly basis. (Pub. L. 91–177, title I, § 115, Dec. 30, 1969, 83 Stat. 833.)

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1969 and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

SUBCHAPTER I.—WORK TRAINING AND WORK-STUDY PROGRAMS

EX. ORD. NO. 11330. COORDINATION OF YOUTH OPPORTUNITY PROGRAMS

Ex Ord. No. 11330, Mar. 5, 1967, 32 F.R. 3871 as amended by Ex Ord. No. 11547, July 10, 1970, 35 F.R. 11221, provided:

The promise and the future strength of the United States is in our youth.

We must meet the needs of youth so that the formative years will equip them for a productive role in society and prepare them for the responsibilities of citizenship.

Many youths, particularly those who live in impoverished areas, need special help in improving their lives and finding a place in the mainstream of our society.

Existing public services for youth need to be strengthened and improved and joined with private resources.

Programs and resources of Federal departments and agencies require coordination in order to provide continuity in planning and carrying out services to meet the needs of youth.

The summer months provide an exceptional opportunity to enhance the sound growth and guidance of youth through education, employment, recreation, and health services.

Now, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I. PRESIDENT'S COUNCIL ON YOUTH OPPORTUNITY

SECTION 101. "Membership and chairmanship." (a) There is hereby established the President's Council on Youth Opportunity (hereinafter referred to as the "Council"). The Council shall be composed of the Vice President, who shall serve as Chairman, the Secretary of State, the Secretary of Defense, the Attorney General, the Postmaster General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Economic Opportunity, the Chairman of the Civil Service Commission, and such other Federal officials as the President may designate. Each of the foregoing may appoint a delegate to represent him in Council affairs.

(b) When matters which affect the interests of Federal agencies not represented on the Council are to be considered by the Council the Chairman shall invite the heads of such agencies to participate in the business of the Council.

SEC. 102. *Functions of the Council.* (a) The Council shall be responsible for (1) assuring effective program planning for summer and other youth programs of the Federal Government, (2) strengthening the coordination of youth programs and activities of Federal departments and agencies, (3) evaluating the over-all effectiveness of Federal youth opportunity programs, (4) encouraging State, local, nonprofit and other private organizations to participate fully in efforts to enhance opportunities for youth, and (5) reporting progress to the President.

(b) The scope of subsection (a) of this section extends to, but is not limited to. (1) programs to maximize meaningful employment for youth in cooperation with employers and agencies of Federal, State, and local governments, and with emphasis on types of employment leading to the acquisition of skills which will increase the employability of participants as members of the labor force; (2) programs to strengthen the educational achievements of youth through such means as preparatory courses conducted through school systems which will encourage youth to continue or resume their education, remedial and tutorial programs conducted in the communities by schools and colleges, and the use of summer and part-time employment as incentives; (3) programs to encourage and stimulate youth to become involved in improving their home neighborhoods; (4) programs designed to identify, diagnose, and treat the illnesses and handicapping conditions of youth who participate in these summer programs; (5) programs arranged through communities and private organizations to stimulate opportunities for youth to participate in cultural, recreational, and athletic activities or competitions; (6) programs utilizing the existing camping and recreational resources in Federal, State, and local parks, forests, and recreation areas, with a view to securing the support and participation of public authorities and private organizations concerned with youth in developing constructive outdoor or work-related opportunities which will benefit disadvantaged urban and rural youth by utilizing such facilities during the summer months; and (7) programs designed to increase opportunities for children of urban slums to spend part of their summers in the wholesome environment of families in other areas through the hospitality of such families and with the support and cooperation of private, nonprofit organizations.

SEC. 103. *Assistance and cooperation.* (a) Upon request of the Chairman, each Federal agency shall, to the extent permitted by law and within available funds, furnish information, data, and reports needed by the Council to accomplish the purposes of this order.

(b) All Federal officials, in carrying out their statutory responsibilities and programs, shall be mindful of the objectives of this order, and shall take into account any advice given by the Council pursuant to this order, and shall take such measures, consistent with their authorities and available funds, as will assist in accomplishing the purposes of this order.

(c) The staff of the Council shall include an Executive Director, who shall be appointed by the Chairman of the Council, and such other employees as may be necessary, who shall be assigned by the various members of the Council.

PART II. CITIZENS ADVISORY BOARD ON YOUTH OPPORTUNITY

SEC. 201. *Establishment of Board.* (a) There is hereby established the Citizens Advisory Board on Youth Opportunity (hereinafter referred to as the "Board").

(b) The Board shall be composed of a Chairman and not more than fourteen other members, all of whom shall be appointed by the President. The Chairman shall serve as such until his successor is appointed by the President. Appointments of the other members of the Board shall be governed by the following: (1) The terms of those first appointed hereunder shall expire on July 1, 1969. (2) The immediate successors of the members so appointed shall be appointed, in as nearly equal numbers as may be, for terms of one year, two years, and three years. (3) Thereafter appointments shall be made for terms of three years.

SEC. 202. *Duties and responsibilities.* (a) The Board shall advise both the President and the Council on matters relating to (1) ways and means of enhancing the opportunities of disadvantaged youth to achieve preparation for adult responsibility, (2) the coordination of programs and activities of Federal agencies which pertain to the needs of youth, and (3) local, State, and private action to extend and improve youth opportunity.

(b) The Board shall advise and assist the Council in the evaluation of the progress made in carrying out the functions of the Council and recommend to the Council, as necessary, action to accelerate progress.

PART III. GENERAL PROVISIONS

SEC. 301. *Financing.* The Federal agencies headed by the officers composing the Council shall, as may be necessary, furnish assistance to the Council or the Board in accordance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691).

SEC. 302. *Expenses of Board members.* Members of the Board shall receive no compensation from the United States by reason of their service under this order but they may be allowed transportation expenses and per diem in lieu of subsistence or reimbursement for actual and necessary expenses (5 U.S.C. 5703(c)(d)).

LYNDON B. JOHNSON.

YOUTH CONSERVATION CORPS

Pub. L. 91–378, Aug. 13, 1970, 84 Stat. 794, provided that:

"SECTION 1. [*Policy and Purpose*]. The Congress finds that the gainful employment during the summer months of American youth, representing all segments of society, in the healthful outdoor atmosphere afforded in the national park system, the national forest system, the national wildlife refuge system, and other public land and water areas administered by the Secretary of the Interior and the Secretary of Agriculture creates an opportunity for understanding and appreciation of the Nation's natural environment and heritage. Accordingly, it is the purpose of this Act to further the development and maintenance of the natural resources of the United States by the youth, upon whom will fall the ultimate responsibility for maintaining and managing these resources for the American people.

"SEC. 2. [*Establishment; membership; term of employment*]. (a) To carry out the purposes of this Act, there is hereby established in the Department of the Interior and the Department of Agriculture a three-year pilot program designated as the Youth Conservation Corps (hereinafter referred to as the 'Corps'). The Corps shall consist of young men and women who are permanent residents of the United States, its territories, or possessions, who have attained age fifteen but have not attained age nineteen, and whom the Secretary of the Interior or the Secretary of Agriculture may employ during the summer months without regard to the civil service or classification laws, rules, or regulations, for the purpose of developing, preserving, or maintaining lands and waters of the United States under the jurisdiction of the appropriate Secretary.

"(b) The Corps shall be open to youth of both sexes and youth of all social, economic, and racial classifications, with no person being employed as a member of the Corps for a term in excess of ninety days during any single year.

"SEC. 3. [*Duties of Secretary of the Interior and Secretary of Agriculture; employment of personnel*]. (a) The Secretary of the Interior and the Secretary of Agriculture shall:

"(1) determine the areas under their administrative jurisdictions which are appropriate for carrying out programs using employees of the Corps;

"(2) determine the rates of pay, hours, and other conditions of employment in the Corps: *Provided,* That members of the Corps shall not be deemed to be Federal employees, other than for the purposes of chapter 171 of title 28, United States Code [chapter 171 of Title 28, Judiciary and Judicial Procedure], and chapter 81 of title 5, United States Code [chapter 81 of Title 5, Government Organization and Employees];

"(3) provide for such transportation, lodging, subsistence, and other services and equipment as they may deem necessary or appropriate for the needs of members of the Corps in their duties. The Secretary of the Interior and the Secretary of Agriculture may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least five years for the operation of any Youth Conservation Corps project. Whenever economically feasible, existing but unoccupied Federal facilities, including military facilities, shall be utilized for the purposes of the Corps where appropriate and with the approval of the Federal agency involved. To minimize transportation costs Corps members shall be employed on conservation projects as near to their places of residence as is feasible;

"(4) promulgate regulations to insure the safety, health, and welfare of the Corps members;

"(5) prepare a report, indicating the most feasible and efficient method for initiating a cost-sharing youth conservation program with State natural resource, conservation, or outdoor recreation agencies, which report shall be submitted to the President not later than one year following enactment of this Act [Aug. 13, 1970], for transmittal to the Congress for review and appropriate action.

"(b) The provision of title II of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270) shall not apply to appointments made to the Corps, to temporary supervisory personnel, or to temporary program support staff.

"SEC. 4. [*Joint reports*]. Upon completion of each year's pilot program, the Secretary of the Interior and Secretary of Agriculture shall prepare a joint report detailing the contribution of the program toward achieving the purposes of the Act and providing recommendations. Each report shall be submitted to the President not later than one hundred and eighty days following completion of that year's pilot program. The President shall transmit the report to the Congress for review and appropriate action.

"SEC. 5. [*Authorization of appropriations*]. For three years following enactment of this Act [Aug. 13, 1970], there are hereby authorized to be appropriated amounts not to exceed $3,500,000 annually to be made available to the Secretary of the Interior and the Secretary of Agriculture to carry out the purposes of this Act."

AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S COUNCIL ON YOUTH OPPORTUNITY

Pub. L. 91–176, Dec. 30, 1969, 83 Stat. 826, provided: "That there is hereby authorized to be appropriated such sums as may be necessary for the expenses of the President's Council on Youth Opportunity, established by Executive Order Numbered 11330 of March 5, 1967."

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2944, 2949 of this title.

PART A.—JOB CORPS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2702, 2702a of this title.

§ 2711. Statement of purpose.

This part establishes a Job Corps for low-income, disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and/or nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling, and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. Its purpose is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies. (Pub. L. 88–452, title I, § 101, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 672.)

AMENDMENTS

1967—Pub. L. 90–222 set out an outline of the scope of the provisions establishing the Job Corps, removed provisions limiting the youths to ages sixteen through twenty-one, and restated the purposes so as to include references to group settings and development of techniques for working with the disadvantaged.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 401 of Pub. L. 90–222 provided that: "The amendments made by this Act [see Short Title of 1967 Amendments note under this section] shall be in effect immediately upon its enactment [Dec. 23, 1967], except as provided in this section. Until June 30, 1968, the provisions of section 202 of the Economic Opportunity Act of 1964 as in effect immediately prior to the enactment of this Act [section 2782 of this title] shall apply to community action agencies in existence and funded prior to the enactment of this Act [Dec. 23, 1967], except that in any grant or funding agreement made with such an agency prior to June 30, 1968, adequate provision shall be made for transfer of functions, obligations, records, authority, and funds to any community action agency designated pursuant to sections 210 or 211 of the Economic Opportunity Act of 1964 as amended by this Act [sections 2790 or 2791 of this title]: *Provided, however,* That nothing in this Act shall require the termination before February 1, 1969 of an existing community action agency or any program assisted under the Economic Opportunity Act of 1964 [this chapter] prior to the designation of, and provision of financial assistance to, a community action agency or other agency established under sections 210 and 211 of the Economic Opportunity Act [sections 2790 and 2791 of this title] as amended by this Act."

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90–222 provided: "That this Act [enacting sections 2702, 2703, 2723—2729, 2737—2749, 2763—2768, 2795—2797, 2808—2812, 2823—2826, 2832—2837, 2862—2864, 2906a, 2906b, 2906c, 2931—2933, 2946, 2971, 2972—2980, 2992, 2992a, 2992b, 2993, 2993a, 2993b, 2994, 2994a, 2994b, 2994c, and 2994d of this title, amending this section and sections 2712—2721, 2781, 2790, 2791, 2841, 2851, 2861, 2901, 2902, 2906, 2907, 2921—2925, 2941—2944, 2949—2951, 2961—2963, 2966, 2981, and 2991 of this title and section 105 of Title 3, The President, omitting sections 2722, 2732—2736, 2761, 2762, 2782—2789, 2792—2794, 2821, 2822, 2831, and 2991a—2991e of this title, redesignating former section 2946 as section 2855 of this title, and enacting provisions set out as notes under this section and section 2702 of this title] may be cited as the 'Economic Opportunity Amendments of 1967'."

§ 2712. Establishment of Job Corps.

There is hereby established within the Office of Economic Opportunity a "Job Corps". (Pub. L. 88–452, title I, § 102, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 673.)

AMENDMENTS

1967—Pub. L. 90–222 reenacted section with minor changes in phraseology and struck out reference to the establishment of the Office of Economic Opportunity by subchapter VI of this chapter.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2713. Individuals eligible for the Job Corps.

To become an enrollee in the Job Corps, a young man or woman must be a person who—

(1) is a permanent resident of the United States who has attained age fourteen but not attained age twenty-two at the time of enrollment;

(2) is a low-income individual or member of a low-income family who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular schoolwork, qualify for other training programs suitable to his needs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair his prospects for successful participation in any other program providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 2714 and 2715 of this title, to have the present capabilities and aspirations needed to complete and secure the full benefit of the program authorized in this part, and to be free of medical and behavioral problems so serious that he could not or would not be able to adjust to the standards of conduct and discipline or pattern of work and training which that program involves; and

(5) meets such other standards for enrollment as the Director may prescribe (including special standards for the enrollment on a residential basis of 14 and 15 year olds) and agrees to comply with all applicable Job Corps rules and regulations.

(Pub. L. 88–452, title I, § 103, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89–253, §§ 2, 3, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89–794, title I, §§ 101, 102, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 673.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions setting out the requirements for enrollment in the Job Corps, including permanent United States residence, age 14—21, low income, disorienting home environment, requisite capabilities and aspirations, and compliance with Job

Corps rules and regulations for provisions covering the Job Corps program, including establishment and operation of conservation camps and training centers, education and vocational training of enrollees, work programs, health services, selection of enrollees, conduct, and termination of enrollment.

1966—Subsec. (a). Pub. L. 89-794, § 101(a), directed that the agreements shall provide that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the operation of any conservation camp or training center shall become the property of the United States.

Subsec. (b). Pub. L. 89-794, §§ 101(b), 102, substituted "at comparable costs" for "with reduced federal expenditures," and inserted provisions requiring that arrangements for education and training of enrollees in the Corps shall, to the extent feasible, provide opportunities for qualified enrollees to obtain education or training necessary to qualify them for the equivalent of a certificate of graduation from high school.

1965—Pub. L. 89-253 authorized the Director of the Office to prescribe regulations to prevent programs under this part from displacing presently employed workers or impairing existing contracts for services and, in subsec. (e), added proviso prohibiting the Director from making payments to any individual or to any organization solely as compensation for the service of referring the names of candidates for enrollment in the Corps.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

SHORT TITLE

Section 1 of Pub. L. 89-253 provided: "That this Act [which amended this section and sections 2714, 2716, 2720, 2734, 2735, 2754, 2761, 2782, 2785, 2788, 2789, 2802, 2805, 2807, 2822, 2831, 2851, 2854, 2861, 2871, 2881, 2922, 2923, 2943, 2945, 2965, and 2966 of this title and section 425 of Title 20 and enacted sections 2806a, 2950, and 2967 of this title] may be cited as the 'Economic Opportunity Amendments of 1965'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2714. Screening and selection of applicants; general provisions.

(a) The Director shall prescribe necessary rules for the screening and selection of applicants for enrollment in the Job Corps. To the extent practicable, these rules shall be implemented through arrangements which make use of agencies and organizations such as community action agencies, public employment offices, professional groups, and labor organizations. The rules shall establish specific standards and procedures for conducting screening and selection activities; shall encourage recruitment through agencies and individuals having contact with youths over substantial periods of time and able, accordingly, to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. They shall also provide for—

(1) the interviewing of each applicant for the purpose of—

(A) determining whether his educational and vocational needs can best be met through the Job Corps or any alternative program in his home community;

(B) obtaining from the applicant pertinent data relating to his background, needs, and interests for evaluation in determining his eligibility and potential assignment; and

(C) giving the applicant a full understanding of the Job Corps program and making clear what will be expected of him as an enrollee in the event of his acceptance.

(2) the conduct of a careful and systematic inquiry concerning the applicant's background for the effective development and, as appropriate, clarification of information concerning his age, citizenship, school and draft status, health, employability, past behavior, family income, environment, and other matters related to a determination of his eligibility.

(b) The Director shall make no payments to any individual or organization solely as compensation for the service of referring the names of candidates for enrollment in the Job Corps.

(c) The Director shall take all necessary steps to assure that the enrollment of the Job Corps includes an appropriate number of candidates selected from rural areas, taking into account the proportion of eligible youth who reside in rural areas and the need to provide residential facilities for such youth in order to meet problems of wide geographic dispersion. (Pub. L. 88-452, title I, § 104, Aug. 20, 1964, 78 Stat. 509; Pub. L. 89-253, §§ 4, 5, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-794, title I, §§ 103-108, Nov. 8, 1966, 80 Stat. 1452, 1453; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 673.)

AMENDMENTS

1967—Pub. L. 90-222 substituted provisions directing the promulgation of rules for the screening and selection of applicants for enrollment in the Job Corps, standards and procedures, recruitment, interviewing, and investigation of backgound, prohibiting payment of referral fees, and requiring the inclusion of rural youths for provisions setting out the composition of the Job Corps and covering eligibility, obligations under the Universal Military Training and Service Act, treatment of Cuban refugees, the affidavit of loyalty and the oath, the number of women in residence at Job Corps conservation camps and training centers, stimulation of community activity, assignment of enrollees and follow up information.

1966—Subsec. (e). Pub. L. 89-794, 103, added subsec. (e).

Subsec. (f). Pub. L. 89-794, § 104, added subsec. (f).

Subsec. (g). Pub. L. 89-794, § 105, added subsec. (g).

Subsec. (h). Pub. L. 89-794, § 106, added subsec. (h).

Subsec. (i). Pub. L. 89-794, § 107, added subsec. (i).

Subsec. (j). Pub. L. 89-794, § 108, added subsec. (j).

1965—Subsec. (a). Pub. L. 89-253, § 4, added provision directing that Cuban refugees arriving as nonimmigrants or parolees subsequent to January 1, 1959, under the provisions of sections 1184(a) or 1182(d)(5) of Title 8, be deemed permanent residents of the United States for purposes of determining their eligibility to participate in the Job Corps program.

Subsec. (d). Pub. L. 89-253, § 5, removed the requirement that each enrollee execute an affidavit of loyalty.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2713, 2991c of this title and in title 5 section 8143.

§ 2715. Reasonable likelihood of successful participation by enrollees; probation and parole.

(a) No individual shall be selected as an enrollee unless it is determined that there is reasonable expectation that he can participate successfully in group situations and activities with other enrollees, that he is not likely to engage in actions or behavior

that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between any center to which he might be assigned and surrounding communities, and that he manifests a basic understanding of both the rules to which he will be subject and of the consequences of failure to observe those rules. Before selecting an individual who has a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other major behavioral aberrations, the Director shall obtain a finding from a professionally qualified person who knows such potential enrollee's individual situation that there is reasonable expectation that his conduct will not be inimical to the goals and success of the Job Corps and that the opportunity provided by the Job Corps will help him to overcome his problem.

(b) An individual who otherwise qualifies for enrollment may be selected even though he is on probation or parole, but only if his release from the immediate supervision of the cognizant probation or parole officials is mutually satisfactory to those officials and the Director and does not violate applicable laws or regulations, and if the Director has arranged to provide all supervision of the individual and all reports to State or other authorities that may be necessary to comply with applicable probation or parole requirements. (Pub. L. 88-452, title I, § 105, Aug. 20, 1964, 78 Stat. 509; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 674.)

AMENDMENTS

1967—Pub. L. 90-222 substituted provisions placing special limitations upon the screening and selection of Job Corps enrollees including a reasonable expectation of successful participation in group activities, compatibility with sound discipline, use of professional appraisals of the chances of success in the case of persons with major behavioral aberrations, and qualification of persons on probation or parole for provisions covering allowances and maintenance and the readjustment allowance upon termination of enrollment.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2713 of this title and title 5 section 8143.

§ 2716. Enrollment and assignment.

(a) Length of enrollment.

No individual may be enrolled in the Job Corps for more than two years, except as the Director may authorize in special cases.

(b) Military service.

Enrollment in the Job Corps shall not relieve any individual of obligations under the Universal Military Training and Service Act.

(c) Oath or affirmation.

Each enrollee (other than a native and citizen of Cuba described in section 2949(3) of this title or a permanent resident of the Trust Territory of the Pacific Islands) must take and subscribe to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies foreign and domestic." The provisions of section 1001 of Title 18 shall be applicable to this oath or affirmation.

(d) Assignment to particular centers; limitations.

After the Director has determined whether an enrollee is to be assigned to a men's training center, a conservation center, or a women's training center, the center to which he shall be assigned shall be that center of the appropriate type in which a vacancy exists which is closest to the enrollee's home, except that the Director, on an individual basis, may waive this requirement when overriding considerations justify such action. Assignments to centers in areas more remote from the enrollee's home shall be carefully limited to situations in which such action is necessary in order to insure an equitable opportunity for disadvantaged youth from various sections of the country to participate in the program, to prevent undue delays in the assignment of individual enrollees, to provide an assignment which adequately meets the educational or other needs of the enrollee or is necessary for efficiency and economy in the operation of the program.

(e) Assignment to conservation centers.

Assignments of male enrollees shall be made so that, at any one time, at least 40 per centum of those enrollees are assigned to conservation centers, as described in section 2717 of this title, or to other centers or projects where their work activity is primarily directed to the conservation, development, or management of public natural resources or recreational areas and is performed under the direction of personnel of agencies regularly responsible for those functions. (Pub. L. 88-452, title I, § 106, Aug. 20, 1964, 78 Stat. 510; Pub. L. 89-253, § 6, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90-222, title I, § 101, Dec. 23, 1967, 81 Stat. 674.)

REFERENCES IN TEXT

The Universal Military Training and Service Act, referred to in text, is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, which was renamed Military Selective Service Act of 1967 by Pub. L. 90-40, June 30, 1967, 81 Stat. 100, and is classified to section 451 et seq. of Title 50 App., War and National Defense.

AMENDMENTS

1967—Pub. L. 90-222 substituted provisions prohibiting enrollment in the Job Corps for more than two years except in special cases, making an individual's service under the Universal Military Training and Service Act independent of his enrollment in the Job Corps, prescribing the oath or affirmation, governing assignment to particular centers, and governing assignment to conservation centers, for provisions covering the applicability of Federal law to Job Corps enrollees, including the Internal Revenue Code, Social Security Act, and Federal Tort Claims Act.

Pub. L. 90-83 repealed section 109 of Pub. L. 89-794 which had amended subsec. (c) on Nov. 8, 1966, without regard to the repeal of subsec. (c) by Pub. L. 89-554 on Sept. 9, 1966.

Pub. L. 90-83 repealed section 6 of Pub. L. 89-253 which had amended subsec. (c) in 1965 prior to its repeal in 1966 by Pub. L. 89-554.

1966—Subsec. (c). Pub. L. 89-554 repealed subsec. (c), which directed that employees under this part shall be deemed civil employees for purposes of the Federal Employees' Compensation Act.

1965—Subsec. (c)(2)(A). Pub. L. 89-253 extended Federal Employees' Compensation Act coverage to encompass enrollees engaged in an authorized or supervised activity while on pass or traveling to or from a Job Corps site.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 6 of Pub. L. 89–253 provided in part that the amendment of this section by section 6 of Pub. L. 89–253 shall be effective retroactive to January 1, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2991c, 2992a of this title and in title 5 section 8143.

§ 2717. Job Corps Centers; Civilian Conservation Centers; training centers; education and vocational training.

(a) The Director may make agreements with Federal, State, or local agencies, or private organizations for the establishment and operation of Job Corps centers. These centers may be residential and/or nonresidential in character and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include conservation centers, to be known as Civilian Conservation Centers, to be located primarily in rural areas and to provide, in addition to other training and assistance, programs of work experience focused upon activities to conserve, develop, or manage public natural resources or public recreational areas or to assist in developing community projects in the public interest. They shall also include men's and women's training centers to be located in either urban or rural areas and to provide activities which shall include training and other services appropriate for enrollees who can be expected to participate successfully in training for specific types of skilled or semiskilled employment.

(b) To the extent feasible, men's and women's training centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in programs described in part B of this subchapter. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Director may specify. (Pub. L. 88–452, title I, § 107, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 675.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering the establishment of Job Corps Centers to include Civilian Conservation Centers, training centers, and the education and vocational training of participants in programs of work and training for youths and adults for provisions prohibiting political discrimination and activity and the certification to the Director of the facts with specific instructions as to discipline or dismissal in cases of violation of the prohibition.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2716 of this title and in title 5 section 8143.

§ 2718. Program activities.

(a) Requisite features of Job Corps Center activities.

Each Job Corps center shall be operated so as to provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned avocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program for each enrollee shall include activities designed to assist him in choosing realistic career goals, coping with problems he may encounter in his home community or in adjusting to a new community, and planning and managing his daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance support and related work activity as appropriate to assist enrollees in increasing their sense of contribution, responsibility, and discipline.

(b) Use of local educational and technical facilities and agencies.

To the extent practicable, the Director may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes where these institutions or institutes can provide training comparable in cost and substantially equivalent in quality to that which he could provide through other means.

(c) High school equivalency certificates; certificates of completion of Job Corps services.

Arrangements for education shall, to the extent feasible, provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school; and the Director, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to enrollees who have satisfactorily completed their services in the Job Corps and which will reflect the enrollee's level of educational attainment.

(d) Displacement of presently employed workers.

The Director shall prescribe regulations to assure that Job Corps work-experience programs or activities do not displace presently employed workers or impair existing contracts for service and will be coordinated with other work-experience programs in the community. (Pub. L. 88–452, title I, § 108, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 676.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions setting out the requisite features of the program activities in Job Corps centers, the use of local educational agencies and facilities, high school equivalency certificates, and certificates for the completion of Job Corps programs for provisions authorizing the Director to arrange for State-operated youth camps and the payment of all or part of the operative or administrative costs of such programs.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2719. Allowance and support of enrollees.

(a) Personal allowances.

The Directory may provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed $35 per month during the first six months of an enrollee's participation in the program and not to exceed $50 per month thereafter, except that allowances in excess of $35 per month, but not exceeding $50 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration, and the Director is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

(b) Accrual of leave.

The Director shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six months service in the Job Corps.

(c) Readjustment allowance upon termination.

The Director may provide each former enrollee, upon termination, a readjustment allowance at a rate not to exceed $50 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Director. The Director may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowance as the Director deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of Title 5.

(d) Direct payment of readjustment allowance to dependents.

Under such circumstances as the Director may determine, a portion of the readjustment allowance of an enrollee not exceeding $25 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum so paid shall be supplemented by the payment of an equal amount by the Director. (Pub. L. 88–452, title I, § 109, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 676.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering the allowance and support of Job Corps enrollees, accrual of leave time, terminal readjustment of allowances, and direct payments to dependents for provisions requiring the approval of camp plans, centers, or facilities by the governor of the State in which such facility is located.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2723 of this title and in title 5 section 8143.

§ 2720. Standards of conduct; discipline.

(a) Within Job Corps centers, standards of conduct and deportment shall be provided and stringently enforced. In the case of violations committed by enrollees, dismissals from the Corps or transfers to other locations shall be made in every instance where it is determined that retention in the Corps, or in the particular Job Corps center, will jeopardize the enforcement of such standards of conduct and deportment or diminish the opportunity of other enrollees.

(b) In order to promote the proper moral and disciplinary conditions in the Job Corps, the individual directors of Job Corps centers shall be given full authority to take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal procedures to higher authority, as provided under regulations set by the Director. (Pub. L. 88–452, title I, § 110, Aug. 20, 1964, 78 Stat. 511; Pub. L. 89–253, § 7, Oct. 9, 1965, 79 Stat. 974; Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 677.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering standards of conduct and deportment within Job Corps centers and disciplinary action for provisions authorizing the establishment of a Youth Conservation Corps and the assignment thereto of at least 40 percent of the male Job Corps enrollees.

1965—Pub. L. 89–253 reduced the requirement that no less than 40 percent of Job Corps enrollees be engaged in Youth Conservation Corps activities by providing that 40 percent of only the male enrollees be so engaged.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2721. Community participation.

The Director shall encourage and shall cooperate in activities designed to establish a mutually beneficial relationship between Job Corps centers and surrounding or nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Whenever possible, such advisory councils shall be formed by and coordinated under the local community action agency. Youth

participation in advisory council affairs shall be encouraged and where feasible separate youth councils may be established, to be composed of representative enrollees and representative young people from the communities. The Director shall establish necessary rules and take necessary action to assure that each center is operated in a manner consistent with this section with a view to achieving, so far as possible, objectives which shall include: (1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community; (2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees; (3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community; (4) encouraging the fullest practicable participation of enrollees in programs or projects for community improvement or betterment, with adequate advance consultation with business, labor, professional, and other interested community groups and organizations; (5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together: (6) providing community residents with opportunities to work with enrollees directly, as part-time instructors, tutors, or advisers, either in the center or in the community; (7) developing, where feasible, job or career opportunities for enrollees in the community; and (8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, and agencies serving young people. (Pub. L. 88–452, title I, § 111, as added Pub. L. 89–794, title I, § 110, Nov. 8, 1966, 80 Stat. 1453, and amended Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 677.)

PRIOR PROVISIONS

A prior section 111 of Pub. L. 88–452 was set out as section 2731 of this title and was repealed by section 112(a) of Pub. L. 89–794.

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering community participation in Job Corps activities and regulations to guide Job Corps enrollees in their relationships with the local community for provisions covering behavior and deportment within Job Corps centers, disciplinary action, and coordination with State probationary or parole procedures.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2722. Experimental and demonstration projects; report to Congress by March 1, 1968.

CODIFICATION

Section, Pub. L. 88–452, title I, § 111–1, as added Pub. L. 89–794, title I, § 111, Nov. 8, 1966, 80 Stat. 1454, provided for experimental and demonstration projects and required the Director to report to Congress no later than March 1, 1968, and was omitted in the general reorganization of this subchapter by Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 672.

§ 2723. Counseling and job placement.

(a) Counseling and testing.

The Director shall provide for the counseling and testing of each enrollee at regular intervals to follow his progress in educational and vocational programs.

(b) Job placement.

The Director shall counsel and test each enrollee prior to his scheduled termination to determine his capabilities and shall seek to place him in a job in the vocation for which he is trained and in which he is likely to succeed, or shall assist him in attaining further training or education. In placing enrollees in jobs, the Director shall utilize the United States Employment Service to the fullest extent possible.

(c) Further education of terminees.

The Secretary of Labor shall make arrangements to determine the status and progress of terminees and to assure that their needs for further education, training, and counseling may be met.

(d) Training data and records.

Upon termination of an enrollee's training, a copy of his pertinent records, including data derived from his counseling and testing, other than confidential information, shall be made available immediately to the Department of Labor and the Office of Economic Opportunity.

(e) Payment of readjustment allowance; records of performance of former enrollees.

The Director shall, to the extent feasible in accordance with section 2979(b) of this title, arrange for the readjustment allowance provided for in section 2719(c) of this title, less any sums already paid pursuant to subsection (d) of that section, to be paid to former enrollees (who have not already found employment) at the public employment service office nearest the home of any such former enrollee, if he is returning to his home, or at the nearest such office to the community in which the former enrollee has indicated an intent to reside. The Secretary of Labor shall make arrangements by which public employment service officers will maintain records regarding former enrollees who are thus paid at such offices including information as to

(1) the number of former enrollees who have declined the offices' help in finding a job;

(2) the number who were successfully placed in jobs without further education or training;

(3) the number who were found to require further training before being placed in jobs and the types of training programs in which they participated; and

(4) the number who were found to require further remedial or basic education in order to qualify for training programs, together with information as to the types of programs for which such former enrollees were found unqualified for enrollment.

If the Director deems it advisable to utilize the services of any other public or private organization or agency in lieu of the public employment office, he shall arrange for that organization or agency to make the payment of the readjustment allowance and maintain the same types of records regarding former enrollees as are herein specified for maintenance by public employment service offices, and shall furnish copies of such records to the Secretary of Labor. In the case of enrollees who are placed in jobs

by the Director prior to the termination of their participation in the Job Corps, the Director shall maintain records providing pertinent placement and follow-up information. (Pub. L. 88–452, title I, § 112, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 678.)

PRIOR PROVISIONS

A prior section 112 of Pub. L. 88–452 was set out as section 2732 of this title and was omitted in the general reorganization of Part B of this subchapter by section 102 of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2724. Evaluations; experimental and development projects.

(a) Reports and summaries.

The Director shall provide for the careful and systematic evaluation of the Job Corps program, directly or by contracting for independent evaluations, with a view to measuring specific benefits, so far as practicable, and providing information needed to assess the effectiveness of program procedures, policies, and methods of operation. In particular, this evaluation shall seek to determine the costs and benefits resulting from the use of residential as opposed to nonresidential facilities, from the use of facilities combining residential and nonresidential components, from the use of centers with large as opposed to small enrollments, and from the use of different types of program sponsors, including public agencies, institutions of higher education, boards of education, and private corporations. The evaluation shall also include comparisons with proper control groups composed of persons who have not participated in the program. In carrying out such evaluations, the Director shall arrange for obtaining the opinions of participants about the strengths and weaknesses of the program and shall consult with other agencies and officials in order to compare the relative effectiveness of Job Corps techniques with those used in other programs, and shall endeavor to secure, through employers, schools, or other Government and private agencies specific information concerning the residence of former enrollees, their employment status, compensation, and success in adjusting to community life. He shall also secure, to the extent feasible, similar information directly from enrollees at appropriate intervals following their completion of the Job Corps program. The results of such evaluation shall be published and shall be summarized in the report required by section 2948 of this title.

(b) Better use of facilities; greater cost effectiveness.

The Director may undertake or make grants or contracts for experimental, research, or demonstration projects directed to developing or testing ways of securing the better use of facilities, of encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in the period of their enrollment, of reducing transportation and support costs, or of otherwise promoting greater efficiency and effectiveness in the program authorized under this part. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Director may, if he deems it advisable, undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors, as described in part B of this subchapter, in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, including programs under part B of this subchapter, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available to projects under this section to the extent they include the same or substantially similar activities. The Director may waive any provision of this subchapter which he finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. He shall, either in the report required by section 2948 of this title or a separate annual document, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

(c) Use of existing educational and training facilities; model community vocational education schools and skill centers.

In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum utilization of existing educational and training facilities, the Director, in cooperation with the Commissioner of Education, shall enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers. Such facilities shall be centrally located in an urban area having a high dropout rate, a large number of unemployed youths, and a need in the area for a combination vocational school and skill center. No such agreement shall be entered into unless it contains provisions designed to assure that—

(1) a job survey be made of the area;

(2) the training program of the school and skill center reflect the job market needs as projected by the survey;

(3) an advisory committee composed of representatives of business, labor, education, and community leaders be formed to follow the center's activities and to make periodic recommendations regarding its operation;

(4) arrangements have been worked out with schools in the area and the administrator of the skill center for maximum utilization of the center both during and after school hours; and

(5) such accounting and evaluation procedures as the Director and the Commissioner of Education deem necessary to carry out the purpose of this project will be provided.

(Pub. L. 88–452, title I, § 113, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 679.)

PRIOR PROVISIONS

A prior section 113 of Pub. L. 88–452 was set out as section 2733 of this title and was omitted in the general reorganization of Part B of this subchapter by section 102 of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2725. Advisory boards and committees.

The Director shall make use of advisory committees or boards in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever he determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities. Nothing in this section shall be considered as limiting the functions of the National Advisory Council, established pursuant to section 2945 of this title, with respect to any matter or question involving the Job Corps; but this shall not prevent the establishment through or in cooperation with the National Advisory Council of one or more boards or committees under this section. (Pub. L. 88–452, title I, § 114, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 680.)

PRIOR PROVISIONS

A prior section 114 of Pub. L. 88–452 was set out as section 2734 of this title and was omitted in the general reorganization of Part B of this subchapter by section 102 of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2726. Participation of States.

(a) The Director shall take necessary action to facilitate the effective participation of States in the Job Corps program, including, but not limited to, consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) The Director may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Director may, pursuant to regulations, pay part or all of the operative or administrative costs of such programs.

(c) No Job Corps center or other similar facility designed to carry out the purpose of this chapter shall be established within a State unless a plan setting forth such proposed establishment has been submitted to the Governor, and such plan has not been disapproved by him within 30 days of such submission. (Pub. L. 88–452, title I, § 115, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 680.)

PRIOR PROVISIONS

A prior section 115 of Pub. L. 88–452 was set out as section 2735 of this title and was omitted in the general reorganization of Part B of this subchapter by section 102 of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2727. Application of provisions of Federal law.

(a) Except as otherwise specifically provided in the following paragraphs of this subsection and in section 8143(a) of Title 5, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 and title II of the Social Security Act enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(2) Repealed. Pub. L. 90–623, § 5(a)(2), Oct. 22, 1968, 82 Stat. 1315.

(3) For purposes of the Federal tort claims provisions in Title 28, enrollees shall be considered employees of the Government.

(b) When the Director finds a claim for damage to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of Title 28, he may adjust and settle it in an amount not exceeding $500.

(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Director for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade therein. (Pub. L. 88–452, title I, § 116, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 681, and amended Pub. L. 90–623, § 5(a), Oct. 22, 1968, 82 Stat. 1315.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in text, is set out in Title 26, Internal Revenue Code.

Title II of the Social Security Act, referred to in text, is Title II of Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended, which is classified to section 401 et seq. of this title.

The Federal tort claims provisions of Title 28, referred to in text, are contained in sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 116 of Pub. L. 88–452 was set out as section 2736 of this title and was omitted in the general reorganization of Part B of this subchapter by section 102 of Pub. L. 90–222.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–623 inserted reference to section 8143(a) of Title 5 in the material preceding par. (1) and struck out par. (2) relating to the application of subchapter I of chapter 81 of Title 5 to Job Corps enrollees.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2994b of this title.

§ 2728. Special limitations.

(a) Limitation on residential capacity of Job Corps centers.

The Director shall not use any funds made available to carry out this part for the fiscal year ending June 30, 1968, in a manner that will increase the residential capacity of Job Corps centers above forty-five thousand enrollees.

(b) Requisite percentage of women enrollees.

The Director shall take necessary action to assure that on or before June 30, 1968, of the total number of Job Corps enrollees receiving training, at least 25 per centum shall be women. The Director shall immediately take steps to achieve an enrollment ratio of 50 per centum women enrollees in training in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

(c) Maximum direct operating costs per enrollee

The Director shall take necessary action to assure that for any fiscal year the direct operating costs of Job Corps centers which have been in operation for more than nine months do not exceed $6,900 per enrollee.

(d) United States property rights in data and materials developed with Federal funds.

The Director shall take necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the operation of any conservation or training center shall become the property of the United States. (Pub. L. 88–452, title I, § 117, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 682.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2729. Political discrimination and political activity.

(a) Affiliation or beliefs.

No officer or employee of the executive branch of the Federal Government shall make any inquiry concerning the political affiliation or beliefs of any enrollee or applicant for enrollment in the Corps. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any enrollee in the Corps, or any applicant for enrollment in the Corps because of his political affiliation or beliefs, except as may be specifically authorized or required by law.

(b) Participation in political management or campaigns.

No officer, employee, or enrollee of the Corps shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute, and no such officer, employee, or enrollee shall use his official position or influence for the purpose of interfering with an election or affecting the result thereof. All such persons shall retain the right to vote as they may choose and to express, in their private capacities, their opinions on all political subjects and candidates. Any officer, employee, enrollee, or Federal employee who solicits funds for political purposes from members of the Corps shall be in violation of the Federal Corrupt Practices Act, 1925.

(c) Certification of violations.

Whenever the United States Civil Service Commission finds that any person has violated the foregoing provisions, it shall, after giving due notice and opportunity for explanation to the officer or employee or enrollee concerned, certify the facts to the Director with specific instructions as to discipline or dismissal or other corrective actions. (Pub. L. 88–452, title I, § 118, as added Pub. L. 90–222, title I, § 101, Dec. 23, 1967, 81 Stat. 682.)

REFERENCES IN TEXT

The Federal Corrupt Practices Act, 1925, referred to in subsec. (b), is act Feb. 28, 1925, ch. 368, title III, 43 Stat. 1070, which is classified to chapter 8 of Title 2, The Congress.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART B.—WORK AND TRAINING FOR YOUTH AND ADULTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2702, 2702a, 2717, 2724, 2769 of this title.

§ 2731. Repealed. Pub. L. 89–794, title I, § 112(a), Nov. 8, 1966, 80 Stat. 1454.

Section, Pub. L. 88–452, title I, § 111, Aug. 20, 1964, 78 Stat. 512, set out the statement of purpose for the work-training programs.

§§ 2732 to 2736. Omitted.

CODIFICATION

Sections were omitted in the general reorganization of Park B of this subchapter by Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 682.

Section 2732, Pub. L. 88–452, title I, § 112, Aug. 20, 1964, 78 Stat. 512; Pub. L. 89–794, title I, § 112(a), Nov. 8, 1966, 80 Stat. 1454, provided for the formulation and implementation of programs for students of low-income families in need of earnings to allow them to stay in school and for individuals 16 through 21 years to develop maximum occupational potential.

Section 2733, Pub. L. 88–452, title I, § 113, Aug. 20, 1964, 78 Stat. 512; Pub. L. 89–794, title I, § 112(a), Nov. 8, 1966, 80 Stat. 1454, set out the required conditions to allow payment of part or all of the costs of programs, including employment on public or locally sponsored projects, non-political projects, and rates of pay, prohibited payment of wages for services on unauthorized projects, and provided for high priority projects.

Section 2734, Pub. L. 88–452, title I, § 114, Aug. 20, 1964, 78 Stat. 513; Pub. L. 89–253, § 8, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89–794, title I, § 112(b), (c), Nov. 8, 1966, 80 Stat. 1455, covered the eligibility if enrollees in program, Cuban refugees, non-applicability of Federal employment laws, and the use of public agencies and private organizations

in the testing, counseling, job development, and referral services to youths.

Section 2735, Pub. L. 88-452, title I, § 115, Aug. 20, 1964, 78 Stat. 513; Pub. L. 89-253, § 9, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89-794, title I, § 112(d), Nov. 8, 1966, 80 Stat. 1455, limited to 90 percent of the costs the Federal assistance in any program pursuant to this part with provisions for exceptions and allowed the non-Federal contribution to be in cash or in kind, fairly evaluated.

Section 2736, Pub. L. 88-452, title I, § 116, Aug. 20, 1964, 78 Stat. 513, required the Director to establish criteria in order to achieve equitable distribution among the States.

§ 2737. Congressional statement of purpose.

The purpose of this part is to provide useful work and training opportunities, together with related services and assistance, that will assist low-income youths to continue or resume their education, and to help unemployed or low-income persons, both young and adult, to obtain and hold regular competitive employment, with maximum opportunities for local initiative in developing programs which respond to local needs and problems, and with emphasis upon a comprehensive approach which includes programs using both public and private resources to overcome the complex problems of the most severely disadvantaged in urban and rural areas having high concentrations or proportions of unemployment, underemployment, and low income. (Pub. L. 8-452, title I, § 120, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 683.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

§ 2738. Community program areas and comprehensive work and training programs.

(a) The Director shall designate or recognize community program areas for the purpose of planning and conducting comprehensive community work and training programs.

(b) For the purpose of this part, a community may be a city, county, multicity, or multicounty unit, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed for a comprehensive work and training program. The Director shall consult with the heads of other Federal agencies responsible for programs relating to community action, manpower services, physical and economic development, housing, education, health, and other community services to encourage the establishment of coterminous or complementary boundaries for planning purposes among those programs and comprehensive work and training programs assisted under this part.

(c) A comprehensive work and training program must seek to provide participants an unbroken sequence of services which will enable them to obtain and hold employment. It shall provide a systematic approach to planning and implementation including the linkage of relevant component programs authorized by this chapter with one another and with other appropriate public and private programs and activities. It shall also provide for evaluation. (Pub. L. 88-452, title I, § 121, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 683.)

PRIOR PROVISIONS

A prior section 121 of Pub. L. 88-452, set out as section 2751 of this title, was renumbered section 141 by section 111(a) of Pub. L. 90-222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

§ 2739. Prime sponsors and delegate agencies.

(a) Receipt of funds.

For each community program area, the Director shall recognize a public or private nonprofit agency which shall serve as the prime sponsor to receive funds under section 2740 of this title (except as otherwise provided in section 2740(c) of this title). This agency must be capable of planning, administering, coordinating, and evaluating a comprehensive work and training program.

(b) Planning and conduct of programs.

The prime sponsor shall provide for participation of employers and labor organizations in the planning and conduct of the comprehensive work and training programs.

(c) Delegate agencies.

The prime sponsor shall be encouraged to make use of public and private organizations as delegate agencies to carry out components of the comprehensive work and training program, including without limitation agencies governed with the participation of the poor and other residents of the neighborhoods or rural areas served, educational institutions, the public employment service, the public welfare agency, other health and welfare agencies, private training institutions, and other capable public and private organizations.

(d) Participation of area residents and members of groups served.

The prime sponsor and delegate agencies shall provide for participation of residents of the area and members of the groups served in the planning, conduct, and evaluation of the comprehensive work and training program and its components. Such persons shall be provided maximum employment opportunity in the conduct of component programs, including opportunity for further occupational training and career advancement.

(e) Administrative controls.

The Director shall prescribe regulations to assure that programs under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds. (Pub. L. 88-452, title I, § 122, as added Pub. L. 90-222, title I, § 102, Dec. 23, 1967, 81 Stat. 683.)

PRIOR PROVISIONS

A prior section 122 of Pub. L. 88-452, set out as section 2752 of this title, was renumbered section 142 by section 111(a) of Pub. L. 90-222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2765 of this title.

§ 2740. Eligible activities.

(a) Comprehensive work and training programs.

The Director may provide financial assistance in urban and rural areas for comprehensive work and training programs or components of such programs, including the following:

(1) programs to provide part-time employment, on-the-job training, and useful work experience for students from low-income families who are in the ninth through twelfth grades of school (or are of an age equivalent to that of students in such grades) and who are in need of the earnings to permit them to resume or maintain attendance in school;

(2) programs to provide unemployed, underemployed, or low-income persons (aged sixteen and over) with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those persons to develop their maximum occupational potential and to obtain regular competitive employment;

(3) special programs which involve work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including without limitation activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands;

(4) special programs which provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served in fields including without limitation health, education, welfare, neighborhood redevelopment, and public safety, which provide maximum prospects for advancement and continued employment without Federal assistance, which give promise of contributing to the broader adoption of new methods of structuring jobs and new methods of providing job ladder opportunities, and which provide opportunities for further occupational training to facilitate career advancement;

(5) special programs which concentrate work and training resources in urban and rural areas having large concentrations or proportions of low-income, unemployed persons, and within those rural areas having substantial outmigration to urban areas, which are appropriately focused to assure that work and training opportunities are extended to the most severely disadvantaged persons who can reasonably be expected to benefit from such opportunities, and which are supported by specific commitments of cooperation from private and public employers;

(6) supportive and follow-up services to supplement work and training programs under this or other Acts including health services, counseling, day care for children, transportation assistance, and other special services necessary to assist individuals to achieve success in work and training programs and in employment;

(7) employment centers and mobile employment service units to provide recruitment, counseling, and placement services, conveniently located in urban neighborhoods and rural areas and easily accessible to the most disadvantaged;

(8) programs to provide incentives to private employers, other than nonprofit organizations, to train or employ unemployed or low-income persons, including arrangements by direct contract, reimbursements to employers for a limited period when an employee might not be fully productive, payment for on-the-job counseling and other supportive services, payment of all or part of employer costs of sending recruiters into urban and rural areas of high concentrations or proportions of unemployed or low-income persons, and payments to permit employers to provide employees resident in such areas with transportation to and from work or to reimburse such employees for such transportation: *Provided,* That in making such reimbursements to employers the Director shall assure that the wages paid any employee shall not be less than the minimum wage which would be applicable to employment under the Fair Labor Standards Act of 1938 if section 6 of such Act applied to the employee and he was not exempt under section 13 thereof; and

(9) means of planning, administering, coordinating, and evaluating a comprehensive work and training program.

(b) Consolidation under prime sponsor.

Commencing July 1, 1968, all work and training component programs conducted in a community under this section shall be consolidated into the comprehensive work and training program and financial assistance for such components shall be provided to the prime sponsor unless the Director determines there is a good cause for providing an extension of time, except as otherwise provided by subsection (c). After that date, the work and training components of programs authorized by section 2922 of this title and by section 2610c of this title shall to the maximum extent feasible be linked to the comprehensive work and training program, including funding through the prime sponsor where appropriate.

(c) Financial assistance to other than prime sponsors.

The Director may provide financial assistance to a public agency or private organization other than a prime sponsor to carry out one or more component programs described in subsection (a) when he determines, after soliciting and considering comments of the prime sponsor, if any, that such assistance would enhance program effectiveness or acceptance on the part of persons served and would serve the purposes of this part. In the case of programs under subsection (a)(1) of this section, financial assistance may be provided directly to local or State

educational agencies pursuant to agreements between the Director and the Secretary of Labor providing for the operation of such programs under direct grants or contracts. (Pub. L. 88–452, title I, § 123, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 684.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in text, is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified to chapter 8 of Title 29, Labor. Sections 6 and 13 of the Act are classified, respectively, to sections 206 and 213 of Title 29.

PRIOR PROVISIONS

A prior section 123 of Pub. L. 88–452, set out as section 2753 of this title, was renumbered section 143 by section 111(a) of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2739, 2741, 2747, 2748, 2749, 2944 of this title.

§ 2741. Special conditions.

(a) Political, sectarian, or religious purposes; worker displacement; rates of pay; occupational development.

The Director shall not provide financial assistance for any program under this part unless he determines, in accordance with such regulations as he may prescribe, that—

(1) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(2) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(3) the rates of pay for time spent in work-training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant; and

(4) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants.

(b) Membership in Communist Party.

The Director shall terminate financial assistance for any program under this part in any case in which he determines that any person charged, in whole or part, with the responsibility for the administration of the program is a member of the Communist Party.

(c) Use of improvements by low-income persons.

For programs which provide work and training related to physical improvements, preference shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions of low-income persons and families.

(d) Elimination of artificial barriers to employment and advancement.

Programs approved under this part shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement.

(e) Maximum use of Federal and private resources.

Projects under this part shall provide for maximum feasible use of resources under other Federal programs for work and training and the resources of the private sector.

(f) Age quotas in youth work and training programs.

In the case of a program under section 2740(a)(1) of this title, the Director shall not limit the number or percentage of the participants in the program who are fourteen or fifteen years of age. (Pub. L. 88–452, title I, § 124, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 686, and amended Pub. L. 90–575, title V, § 503, Oct. 16, 1968, 82 Stat. 1062.)

PRIOR PROVISIONS

A prior section 124 of Pub. L. 88–452, set out as section 2754 of this title, was renumbered section 144 by section 111(a) of Pub. L. 90–222.

AMENDMENTS

1968—Subsec. (f). Pub. L. 90–575 added subsec. (f).

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2765 of this title.

§ 2742. Program participants.

(a) Participants in programs under this part must be unemployed or low-income persons. The Director, in consultation with the Social Security Administrator, shall establish criteria for low income, taking into consideration family size, urban-rural and farm-nonfarm differences, and other relevant factors. Any individual shall be deemed to be from a low-income family if the family receives cash welfare payments.

(b) Participants must be permanent residents of the United States or of the Trust Territory of the Pacific Islands.

(c) Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits. (Pub. L. 88–452, title I, § 125, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 686.)

PRIOR PROVISIONS

A prior section 125 of Pub. L. 88–452, set out as section 2755 of this title, was renumbered section 145 by section 111(a) of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2743. Elderly persons; programs; staff.

The Director shall provide that programs under this part shall be designed to deal with the incidence of long-term unemployment among persons fifty-five years and older. In the conduct of such programs,

the Director shall encourage the employment of such persons as regular, part-time, and short-time staff in component programs. (Pub. L. 88–452, title I, § 126, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 686.)

CODIFICATION

Another section 126 of Pub. L. 88–452 is set out as section 2756 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2744. Pilot projects.

(a) The Director may provide financial assistance to public or private organizations for pilot projects which are designed to develop new approaches to further the objectives of this part. Such projects may be conducted by public agencies or private organizations.

(b) The Director shall undertake pilot projects designed to encourage the maximum participation of private employers, other than nonprofit organizations, in work and training programs under this part.

(c) Before the Director may approve a pilot project, he shall solicit and consider comments on such project from the prime sponsor, if any, in the community where the project will be undertaken. (Pub. L. 88–452, title I, § 127, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2745. Technical assistance and training.

The Director may provide (directly or through contracts or other appropriate arrangements) technical assistance to assist in the initiation or effective operation of programs under this part. He may also make arrangements for the training of instructors and other personnel needed to carry out work and training programs under this part and part D of this subchapter. He shall give special consideration to the problems of rural areas. (Pub. L. 88–452, title I, § 128, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2746, 2749 of this title.

§ 2746. Role of the States.

The Director may provide financial assistance to appropriate State agencies to—

(1) provide technical assistance and training, as authorized by section 2745 of this title, with particular emphasis upon service to rural areas and for this purpose preference shall be given to the State agency which administers programs assisted by section 2824 of this title;

(2) assist in coordinating State activities related to this part;

(3) operate work and training programs in communities which have not yet established an acceptable prime sponsor; and

(4) provide work and training opportunities on State projects and in State agencies: *Provided,* That these opportunities shall be made available to participants in community work and training programs.

(Pub. L. 88–452, title I, § 129, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2749 of this title.

§ 2747. Equitable distribution of assistance.

Of the sums appropriated or allocated for any fiscal year for programs authorized under this subchapter, the Director shall reserve not to exceed 20 per centum for the purpose of carrying out section 2740(a)(5) of this title but not more than 12½ per centum of the funds so reserved for any fiscal year shall be used within any one State. With respect to the remaining funds appropriated or allocated to carry out the provisions of section 2740 of this title, the Director shall establish criteria designed to achieve an equitable distribution of assistance among the States. In developing those criteria, he shall consider, among other relevant factors, the ratios of population, unemployment, and family income levels. (Pub. L. 88–452, title I, § 130, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2748. Limitation on Federal assistance.

Federal financial assistance to any program or activity carried out pursuant to section 2740 of this title shall not exceed 90 per centum of the cost of such program or activity, including costs of administration. The Director may, however, approve assistance in excess of that percentage if he determines, pursuant to regulations establishing objective criteria for such determinations, that this is necessary in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. If in any fiscal year, a community provides non-Federal contributions under this part exceeding its requirements under this section, such excess may be used to meet its requirements for such contributions under section 2812(c) of this title. (Pub. L. 88–452, title I, § 131, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 687.)

PRIOR PROVISIONS

A prior section 131 of Pub. L. 88–452, set out as section 2761 of this title, was omitted in the general reorganization of Part D of this subchapter by section 103 of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2769f, 2812 of this title.

§ 2749. Program data and evaluation.

(a) The Director shall provide for the development and implementation of a program data system consistent with similar data systems for other relevant Federal programs. Such data shall be published periodically.

(b) The Director shall provide for the continuing evaluation of the programs under this part, including their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for the delivery of services, and he shall arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs. This evaluation shall include comparisons with proper control groups composed of persons who have not participated in such programs, and shall seek to develop comparative data on the costs and benefits of work and training programs authorized by this chapter and by other Acts, including the Manpower Development and Training Act of 1962. He may, for this purpose, contract for independent evaluations of such programs or individual projects. The results of such evaluations shall be included in the report required by section 2948 of this title.

(c) The Director shall develop and publish standards for evaluation of program effectiveness in achieving the objectives of this part. Such standards shall be considered in deciding whether to renew or supplement financial assistance provided by sections 2740, 2745 and 2746 of this title. (Pub. L. 88–452, title I, § 132, as added Pub. L. 90–222, title I, § 102, Dec. 23, 1967, 81 Stat. 688.)

REFERENCES IN TEXT

The Manpower Development and Training Act of 1962, referred to in text, is Pub. L. 87–415, Dec. 19, 1963, 77 Stat. 422, which is classified to chapter 30 of this title.

PRIOR PROVISIONS

A prior section 132 of Pub. L. 88–452, set out as section 2762 of this title, was omitted in the general reorganization of Part D of this subchapter by section 103 of Pub. L. 90–222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART C.—WORK-STUDY PROGRAMS

CODIFICATION

This part is part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329, and not part C of Title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, which comprises this chapter.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2702 of this title; title 20 sections 1060, 1088, 1088a, 1088b, 1088c.

§ 2751. Statement of purpose; authorization of appropriations.

(a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students from low-income families, in eligible institutions who are in need of the earnings from such employment to pursue courses of study at such institutions.

(b) There are authorized to be appropriated $225,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, and $320,000,000 for the fiscal year ending June 30, 1971, to carry out this part. (Pub. L. 89–329, title IV, § 441, formerly title I, § 141, as added, renumbered, and amended Pub. L. 90–575, title I, §§ 131(a), (b)(1), 132, 133(a), Oct. 16, 1968, 82 Stat. 1028, 1029; Pub. L. 91–95, § 5, Oct. 22, 1969, 83 Stat. 143.)

CODIFICATION

Section was originally enacted as section 121 of the Economic Opportunity Act of 1964, Pub. L. 88–452, title I, Aug. 20, 1964, 78 Stat. 513. As such, it had been amended by Pub. L. 89–329, title IV, § 441(2), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 141 by Pub. L. 90–222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329. Former Part C of title IV of Pub. L. 89–329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(2) of Pub. L. 89–329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

PRIOR PROVISIONS

A prior section 441 of Pub. L. 89–329, which amended this section and sections 2752—2756 and 2761 of this title, was stricken out by section 131(a) of Pub. L. 90–575.

AMENDMENTS

1969—Subsec. (b). Pub. L. 91–95 increased the general authorization of appropriations for the fiscal years ending June 30, 1970, and June 30, 1971.

1968—Subsec. (a). Pub. L. 90–575, §§ 132, 133(a), denominated existing provisions as subsec. (a) and, in subsec. (a), as so denominated, substituted "eligible institutions" for "institutions of higher education."

Subsec. (b). Pub. L. 90–575, § 132, added subsec. (b).

REFERENCES TO PART C OF TITLE I OF THE ECONOMIC OPPORTUNITY ACT OF 1964

Section 131(c) of Pub. L. 90–575 provided that: "Any reference to any provision of part C of title I of the Economic Opportunity Act of 1964 in any law of the United States shall be deemed to be a reference to the corresponding provision of part C of title IV of the Higher Education Act of 1965 as amended by this section [this part]."

§ 2752. Allotments to States.

(a) Allotments for Puerto Rico, Guam, American Samoa, Trust Territory of the Pacific Islands, and Virgin Islands.

From the sums appropriated to carry out this part for a fiscal year, the Commissioner shall (1) allot not to exceed 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part. The remainder of such sums shall be allotted among the States as provided in subsection (b) of this section, and (2) reserve the amount provided by subsection (e) of this section.

(b) Manner of allotment.

Of the sums being allotted under this subsection—

(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as

the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States.

(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 713(d)(3) of Title 20) of such State bears to the total number of such high school graduates of all the States, and

(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under 18 years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under 18 years of age living in families with annual incomes of less than $3,000 in all the States.

(c) Reallotments; availability of amounts.

The amount of any State's allotment which has not been granted to an eligible institution under section 2753 of this title at the end of the fiscal year for which appropriated shall be reallotted by the Commissioner, in such manner as he determines will best assist in achieving the purposes of the Higher Education Act of 1965. Amounts reallotted under this subsection shall be available for making grants under section 2753 of this title until the close of the fiscal year next succeeding the fiscal year for which appropriated.

(d) Definition of State.

For purposes of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(e) Reservation from appropriations for work-study assistance to students resident in American Samoa or the Trust Territory of the Pacific Islands.

From the appropriation for this part for each fiscal year the Commissioner shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students. (Pub. L. 89–329, title IV, § 442, formerly title I, § 142, as added, renumbered, and amended Pub. L. 90–575, title I, §§ 131(a), (b)(1), (3), 133(a), 135, Oct. 16, 1968, 82 Stat. 1028, 1029).

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c), was, in the original, "this Act". The Higher Education Act of 1965 is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified principally to section 1001 et seq. of Title 20. See Short Title note under section 1001 of Title 20.

CODIFICATION

Section was originally enacted as section 122 of the Economic Opportunity Act of 1964, Pub. L. 88–452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89–329, title IV, § 441(1), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 142 by Pub. L. 90–222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329. Former Part C of title IV of Pub. L. 89–329, as originally enacted, comprising sections 441 and 442 thereof, was stricten to accommodate the transferral but the amendment of this section by section 441(1) of Pub. L. 89–329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–575, §§ 131(b)(3), 135(a), struck out reference to the reservation of an amount needed for making grants under section 2753 of this title and added reference to the reservation of the amount provided by subsec. (e).

Subsec. (c). Pub. L. 90–575, § 133(a), substituted "eligible institution" for "institution of higher education."

Subsec. (e). Pub. L. 90–575, § 135(b), added subsec. (e).

§ 2753. Grants for work-study programs; agreements with eligible institutions; definitions.

(a) The Commissioner is authorized to enter into agreements with eligible institutions under which the Commissioner will make grants to such institutions to assist in the operation of work-study programs as hereinafter provided.

(b) For the purposes of this part the term "eligible institution" means an institution of higher education (as defined in section 1085(b) of Title 20), an area vocational school (as defined in section 1248(2) of Title 20), or a proprietary institution of higher education (as defined in section 1088(b) of Title 20). (Pub. L. 89–329, title IV, § 443, formerly title I, § 143, as added, renumbered, and amended Pub. L. 90–575, title I, §§ 131(a), (b)(1), 133(a), (b), 139(1), Oct. 16, 1968, 82 Stat. 1028, 1029, 1030.)

REFERENCES IN TEXT

Section 1248(2) of Title 20, referred to in subsec. (b), was, in the original, section 8(2) of the Vocational Education Act of 1963. Such section 8(2) is section 8(2) of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 408, which was formerly classified to section 35g of Title 20, Education, but which was omitted in the general reorganization of Pub. L. 88–210 by Pub. L. 90–576, title I, § 101, Oct. 16, 1968, 82 Stat. 1064. The definition of "area vocational school" in Pub. L. 88–210 as reorganized is set out in section 108(2) thereof, which is classified to section 1248(2) of Title 20.

CODIFICATION

Section was originally enacted as section 123 of the Economic Opportunity Act of 1964, Pub. L. 88–452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89–329, title IV, § 441(3), Nov. 8, 1965, 79 Stat. 1249, and renumbered section 143 by Pub. L. 90–222, title I, § 111(a), December 23, 1967, 81 Stat. 726.

Under Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329. Former Part C of title IV of Pub. L. 89–329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(2) of Pub. L. 89–329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–575, § 133(a), substituted "eligible institutions" for "institutions of higher education".

Subsec. (b). Pub. L. 90–575, §§ 133(b), 139(1), substituted provisions defining "eligible institution" to mean institution of higher education, area vocational school, or proprietary institution of higher education for provisions defining "institution of higher education", "collegiate school of nursing", "associate degree school of nursing", and "accredited".

1965—Pub. L. 89–329 designated existing provisions as subsec. (a), substituted "Commissioner" for "Director" in two instances, deleted "(as defined by section 751(f) of Title 20)" following "institutions of higher education", and added subsec. (b).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 139(1) of Pub. L. 90–575 provided in part that the amendment of subsec. (b) of this section by section 139 of Pub. L. 90–575, which added proprietary institutions of higher education as defined in section 1088(b) of Title 20 to the definition of "eligible institution", are effective for fiscal years ending on or after June 30, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2752, 2754 of this title.

§ 2754. Agreements with eligible institutions.

(a) Conditions.

An agreement entered into pursuant to section 2753 of this title shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education), or work in the public interest for a public or private nonprofit organization under an arrangement between the institution and such organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services.

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee, and

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) provide that funds granted an eligible institution, pursuant to section 2753 of this title may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 1088b of Title 20;

(3) provide that in the selection of students for employment under such work-study program preference shall be given to students from low-income families and that employment under such work-study program shall be furnished only to a student who (1) is in need of the earnings from such employment in order to pursue a course of study at such institution, (2) is capable, in the opinion of the institution, of maintaining good standing in such course of study while employed under the program covered by the agreement, and (3) has been accepted for enrollment as a full-time student at the institution or, in the case of a student already enrolled in and attending the institution, is in good standing and in full-time attendance there either as an undergraduate, graduate, or professional student;

(4) provide that the average hours of employment of a student under such work-study program, shall not exceed fifteen per week over a semester, or other term used by the institution in awarding credits, during which the student is enrolled in classes;

(5) provide that the institution will meet the requirements of section 1088c of Title 20 (relating to maintenance of effort);

(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Commissioner determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

(7) include provisions designed to make employment under such work-study program, or equivalent employment offered or arranged for by the institution, reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

(8) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part.

(b) Agreements with area vocational schools.

An agreement entered into pursuant to section 2753 of this title with an area vocational school shall contain, in addition to the provisions described in subsection (a) of this section, a provision that a student in such a school shall be eligible to participate in a program under this part only if he (1) has a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, and (2) is pursuing a program of education or training which requires at least six months to complete and is designed to prepare the student for gainful employment in a recognized occupation.

(c) Hours of employment.

For purposes of paragraph (4) of subsection (a) of this section, in computing average hours of employment of a student over a semester or other term, there shall be excluded any period during which the student is on vacation and any period of non-regular enrollment. Employment under a work-study program during any such period of non-regular enrollment during which classes in which the student is enrolled are in session shall be only to the extent and in accordance with criteria established by or pursuant to regulations of the Commissioner. (Pub. L. 89–329, title IV, § 444, formerly title I, § 144, as added, renumbered, and amended Pub. L. 90–575, title I, §§ 131(a), (b)(1), 133(a), (c), 134, 136, 137, 138, 139(2), Oct. 16, 1968, 82 Stat. 1028, 1029, 1030.)

CODIFICATION

Section was originally enacted as section 124 of the Economic Opportunity Act of 1964, Pub. L. 88–452, title I, Aug. 20, 1964, 78 Stat. 514. As such, it had been amended by Pub. L. 89–253, § 10, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89–329, title IV, § 441(1), (4), (5), Nov. 8, 1965, 79 Stat.

1249; Pub. L. 90–82, §§ 1, 2, Sept. 6, 1967, 81 Stat. 194, and renumbered section 144 by Pub. L. 90–222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, and inserted as Part C of title IV of the Higher Education Act of 1964, Pub. L. 89–329. Former Part C of title IV of Pub. L. 89–329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(1), (4), (5) of Pub. L. 89–239 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–575, §§ 133(a), (c), 134, 137, 138, 139(2), denominated existing provisions as subsec. (a), substituted "(1)"—"(8)" for "(a)"—"(h)" as the designations for the paragraphs of subsec. (a) and "(A)"—"(C)" for "(1)"—"(3)" as the designations for the subparagraphs of paragraph (1), inserted parenthetical reference to an exception in the case of proprietary institutions of higher education in par. (1), substituted "eligible institution" for "institution of higher education" and "in accordance with section 1083b of Title 20" for provisions placing a 5 percent ceiling on the amount which funds used may bear to the payments made to such institutions in par. (2), substituted reference to the meeting of the requirements of section 1088c of Title 20 (relating to the maintenance of effort) for reference to the expending of amounts by institutions for the employment of its students in in par. (5), and substituted "80" for a declining downward graduation from 90 to 75 as the percentum figure for the maximum allowable Federal share of compensation and added an exception for cases where an increased Federal share is required in par. (6).

Subsec. (b). Pub. L. 90–575, § 133(c), added subsec. (b).

Subsec. (c). Pub. L. 90–575, § 136, added subsec. (c).

EFFECTIVE DATE OF 1968 AMENDMENT

Sections 137, 138, and 139(2) of Pub. L. 90–575 provided in part that the amendments of subsecs. (a)(5), (a)(2), and (a)(1) of this section by such sections are effective for fiscal years ending on or after June 30, 1970.

§ 2755. Sources of matching funds.

Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution. (Pub. L. 89–329, title IV, § 445, formerly title I, § 145, as added and renumbered Pub. L. 90–575, title I, § 131(a), (b)(1), Oct. 16, 1968, 82 Stat. 1028.)

CODIFICATION

Section was originally enacted as section 125 of the Economic Opportunity Act of 1964, Pub. L. 88–452, title I, Aug. 20, 1964, 78 Stat. 516. As such, it had been amended by Pub. L. 89–329, title IV, § 441(6), Nov. 8, 1965, 79 Stat. 1250, and renumbered section 145 by Pub. L. 90–222, title I, § 111(a), Dec. 23, 1967, 81 Stat. 726.

Under Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329. Former Part C of title IV of Pub. L. 89–329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(6) of Pub. L. 89–329 has not been stricken.

§ 2756. Equitable distribution of assistance.

The Commissioner shall establish criteria designed to achieve such distribution of assistance under this part among eligible institutions within a State as will most effectively carry out the purposes of the Higher Education Act of 1965. (Pub. L. 89–329, title IV, § 446, formerly title I, § 126, as added, renumbered, and amended Pub. L. 90–575, title I, §§ 131(a), (b)(2), 133(a), Oct. 16, 1968, 82 Stat. 1028, 1029.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in text, was, in the original, "this Act". The Higher Education Act of 1965 is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified principally to section 1001 et seq. of Title 20. See Short Title note under section 1001 of Title 20.

CODIFICATION

Section was originally enacted as section 126 of the Economic Opportunity Act of 1964, Pub. L. 88–452, title I, Aug. 20, 1964, 78 Stat. 516. As such, it had been amended by Pub. L. 89–329, title IV, § 441(1), Nov. 8, 1965, 79 Stat. 1249.

Under Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028, section was transferred along with the remainder of Part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, and inserted as Part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329. Former Part C of title IV of Pub. L. 89–329, as originally enacted, comprising sections 441 and 442 thereof, was stricken to accommodate the transferral but the amendment of this section by section 441(1) of Pub. L. 89–329 has not been stricken. For amendment of section in addition to the transfers and redesignations treated above, see 1968 Amendment note below.

AMENDMENTS

1968—Pub. L. 90–575, § 133(a), substituted "eligible institutions" for "institutions of higher education".

§ 2757. Repealed. Pub. L. 90–575, title I, § 131(a), Oct. 16, 1968, 82 Stat. 1028.

Section, Pub. L. 89–329, title IV, § 442, Nov. 8, 1965, 79 Stat. 1251, authorized appropriations for the fiscal years ending June 30, 1966, 1967, and 1968, to carry out the provisions of this part. Another section 442 of Pub. L. 89–329 was added by section 131 of Pub. L. 90–575 and is set out as section 2752 of this title. For authorization of appropriations to carry out the provisions of this part for fiscal years ending after June 30, 1968, see section 2751(b) of this title.

PART D.—SPECIAL IMPACT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2702, 2702a, 2745 of this title.

§§ 2761, 2762. Omitted.

CODIFICATION

Sections were omitted in the general reorganization of Part D of this subchapter by Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 688.

Section 2761, Pub. L. 88–452, title I, § 131, Aug. 20, 1964, 78 Stat. 516; Pub. L. 89–253, § 30(a), Oct. 9, 1965, 79 Stat. 978; Pub. L. 89–329, title IV, § 441(7), Nov. 8, 1965, 79 Stat. 1250; Pub. L. 89–794, title I, § 113(2), Nov. 8, 1966, 80 Stat. 1455, provided for the establishment of special impact programs and the grants, criteria, and procedures to be used in carrying them out.

Section 2762, Pub. L. 88–452, title I, § 132, as added Pub. L. 89–794, title I, § 113(2), Nov. 8, 1966, 80 Stat. 1456, placed a limitation on the Federal share of the cost of special impact programs. See section 2768 of this title.

§ 2763. Congressional statement of purpose.

The purpose of this part is to establish special programs which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban areas having especially large concentrations of low-income persons, and within those rural areas

having substantial out-migration to eligible urban areas, and (2) are of sufficient size and scope to have an appreciable impact in such communities and neighborhoods in arresting tendencies toward dependency, chronic unemployment, and rising community tensions. (Pub. L. 88–452, title I, § 150, as added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 688.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2764. Establishment of programs.

The Director is authorized to provide financial assistance to public agencies or private organizations for the payment of all or part of the costs of programs which are designed to carry out the purposes of this part. Such programs shall be restricted in number so that each is of sufficient size and scope to have an appreciable impact on the area served. Such programs may include—

(1) economic and business development programs, including programs which provide financial and other incentives to business to locate in or near the areas served so as to provide employment opportunities for residents of those areas, and programs such as those described in subchapter IV of this chapter for small businesses in or owned by residents of such areas;

(2) community development activities which create new training and employment opportunities and which contribute to an improved living environment; and

(3) manpower training programs for unemployed or low-income persons which support and complement economic, business, and community development programs, including without limitation activities such as those described in part B of this subchapter.

(Pub. L. 88–452, title I, § 151, as added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 688.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2767 of this title.

§ 2765. Requirements for financial assistance.

(a) Conditions.

The Director shall not provide financial assistance for any program or component project under this part unless he determines that—

(1) all projects and related facilities will, to the maximum feasible extent, be located in the area served;

(2) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses by residents of the area served;

(3) projects will be planned and carried out with the maximum participation of local businessmen by their inclusion on program boards of directors, advisory councils, or through other appropriate means;

(4) the program will be appropriately coordinated with local planning under this chapter, the Demonstration Cities and Metropolitan Development Act of 1966, and with other relevant plans for physical and human resources of the areas served;

(5) the requirements of sections 2739(e) and 2741(a) of this title have been met;

(6) preference will be given to the residents of the areas served in filling jobs and training opportunities; and

(7) training programs financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities or neighborhoods other than those for which programs are established under this part.

(b) Relocation of establishments.

Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in an increase in unemployment in the area of original location.

(c) Substitution of funds.

The level of financial assistance for related purposes under this chapter to the area served by a special impact program shall not be diminished in order to substitute funds authorized by this part.

(d) Limitation on funds.

Of the sums appropriated or allocated for any fiscal year for programs authorized under this subchapter, the Director shall reserve not less than 7 per centum for the purpose of carrying out this part. (Pub. L. 88–452, title I, § 152, as added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 689.)

REFERENCES IN TEXT

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a)(4), is Pub. L. 89–754, Nov. 3, 1966, 80 Stat. 1255, and is classified principally to chapter 41 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2766. Application of other Federal resources.

(a) The Secretary of Housing and Urban Development shall, in consultation with the Director, take all necessary steps under the authority granted to him under title I of the Housing Act of 1949 to assure that land for business location and expansion purposes is made available as may be necessary to carry out the purpose of this part.

(b) Areas selected for assistance under this part shall be deemed "redevelopment areas" within the meaning of section 401 of the Public Works and Economic Development Act of 1965 and shall qualify for assistance under the provisions of title II of that Act.

(c) The Director shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds

are placed in such a way as to further the purposes of this part. (Pub. L. 88–452, title I, § 153, as added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 689.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, referred to in subsec. (a), is title I of act July 15, 1949, ch. 338, 61 Stat. 413, as amended, which is classified to section 1450 et seq. of this title.

The Public Works and Economic Development Act of 1965, referred to in subsec. (b), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, which is classified to chapter 38 of this title, and section 401 and title II of that act are classified respectively to section 3161 and section 3141 et seq. of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2767. Evaluation.

Each program for which payments are made under section 2764 of this title shall provide for a thorough evaluation of the effectiveness of the program in achieving the goals of this part. This evaluation shall be conducted by such public or private organizations as the Director may designate, and up to 100 per centum of the costs of evaluation may be paid from funds appropriated to carry out this part. The results of such evaluations or a summary of them, together with the Director's findings and recommendations concerning the program, shall be included in the report required by section 2948 of this title. (Pub. L. 88–452, title I, § 154, as added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 690.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2768. Federal share of program costs.

Federal grants to any program carried out pursuant to this part shall not exceed 90 per centum of the cost of such program, including costs of administration, unless the Director determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that assistance in excess of such percentage is required in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services: *Provided,* That where capital investment is required under a contract with a private organization (other than a nonprofit organization), the Federal share thereof shall not exceed 90 per centum of such capital investment and the non-Federal share shall be as defined above. (Pub. L. 88–452, title I, § 155, as added Pub. L. 90–222, title I, § 103, Dec. 23, 1967, 81 Stat. 690.)

PRIOR PROVISIONS

Subject matter of this section was formerly covered by section 2762 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART E.—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2702a of this title.

§ 2769. Congressional statement of purpose.

The Congress finds that the "Mainstream" program aimed primarily at the chronically unemployed and the "New Careers" program providing jobs for the unemployed and low-income persons leading to broader career opportunities are uniquely effective; that, in addition to providing persons assisted with jobs, the key to their economic independence, these programs are of advantage to the community at large in that they are directed at community beautification and betterment and the improvement of health, education, welfare, public safety, and other public services; and that, while these programs are important and necessary components of comprehensive work and training programs, there is a need to encourage imaginative and innovative use of these programs, to enlarge the authority to operate them, and to increase the resources available for them. (Pub. L. 88–452, title I, § 161, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 833.)

§ 2769a. Special programs for the unemployed; "Mainstream", "New Careers"; supportive services.

(a) The Director is authorized to provide financial assistance to public or private nonprofit agencies to stimulate and support efforts to provide the unemployed with jobs and the low-income worker with greater career opportunity. Programs authorized under this section shall include the following:

(1) A special program to be known as "Mainstream" which involves work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, physical condition, obsolete or inadequate skills, declining economic conditions, other causes of a lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including without limitation activities which will contribute to the management conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands, the rehabilitation of housing, the improvement of public facilities, and the improvement and expansion of health, education, day care, and recreation services;

(2) A special program to be known as "New Careers" which will provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served in fields of public service, including without limitation health, education, welfare, recreation, day care, neighborhood redevelopment, and public

safety, which provide maximum prospects for on-the-job training, promotion, and advancement and continued employment without Federal assistance, which give promise of contributing to the broader adoption of new methods of structuring jobs and new methods of providing job ladder opportunities, and which provide opportunities for further occupational training to facilitate career advancement.

(b) The Director is authorized to provide financial and other assistance to insure the provision of supportive and follow-up services to supplement programs under this part including health services, counseling, day care for children, transportation assistance, and other special services necessary to assist individuals to achieve success in these programs and in employment. (Pub. L. 88–452, title I, § 162, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 834.)

§ 2769b. Establishment of internal administrative procedures by Director.

The Director shall prescribe regulations to assure that programs under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of in-service training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds. (Pub. L. 88–452, title I, § 163, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 834.)

§ 2769c. Special conditions.

(a) Considerations governing Director's grant of financial aid.

The Director shall not provide financial assistance for any program under this part unless he determines, in accordance with such regulations as he may prescribe, that—

(1) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(2) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(3) the rates of pay for time spent in work-training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant; and

(4) the program will, to the maximum extent feasible, contribute to the occupational development and upward mobility of individual participants.

(b) Preference to physical improvement programs for low-income groups.

For programs which provide work and training related to physical improvements, preference shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions for low-income persons and families.

(c) Purpose of special programs.

Programs approved under this part shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement.

(d) Use of private and federal funds.

Projects under this part shall provide for maximum feasible use of resources under other Federal programs for work and training and the resources of the private sector. (Pub. L. 88–452, title I, § 164, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 835.)

§ 2769d. Program participants.

(a) Low-income criteria.

Participants in programs under this part must be unemployed or low-income persons. The Director, in consultation with the Commissioner of Social Security, shall establish criteria for low income, taking into consideration family size, urban-rural and farm-nonfarm differences, and other relevant factors. Any individual shall be deemed to be from a low-income family if the family receives cash welfare payments.

(b) Necessity of permanent residence.

Participants must be permanent residents of the United States or of the Trust Territory of the Pacific Islands.

(c) Non-applicability of federal employment laws.

Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits. (Pub. L. 88–452, title I, § 165, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 835.)

§ 2769e. Criteria for equitable distribution of assistance among States.

The Director shall establish criteria designed to achieve an equitable distribution of assistance among the States. In developing those criteria, he shall consider, among other relevant factors, the ratios of population, unemployment, and family income levels. Of the sums appropriate or allocated for any fiscal year for programs authorized under this part not more than 12½ per centum shall be used within any one State. (Pub. L. 88–452, title I, § 166, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 835.)

§ 2769f. Limitations on Federal assistance.

Programs assisted under this part shall be subject to the provisions of section 2748 of this title. (Pub. L. 88–452, title I, § 167, as added Pub. L. 91–177, title II, § 201, Dec. 30, 1969, 83 Stat. 836.)

PART F.—DURATION OF PROGRAMS

§ 2771. Duration of programs.

The Director shall carry out the programs under this subchapter during the fiscal year ending June 30, 1967, and the five succeeding fiscal years. For each such fiscal year only such sums may be

appropriated as the Congress may authorize by law. (Pub. L. 88–452, title I, § 171, formerly § 141, as added Pub. L. 89–794, title I, § 114, Nov. 8, 1966, 80 Stat. 1456, renumbered § 161, Pub. L. 90–222, title I, § 111(b), Dec. 23, 1967, 81 Stat. 726, and renumbered § 171, and amended Pub. L. 91–177, title I, § 101(a), title II, § 201, Dec. 30, 1969, 83 Stat. 827, 833.)

CODIFICATION

Section 141 of Pub. L. 88–452, as added by section 114 of Pub. L. 89–794, was formerly designated as section 131 of Pub. L. 88–452, was classified to section 2761 of this title, and provided for the carrying out of programs by the Director through June 30, 1968. The redesignation as section 141 of Pub. L. 88–452 included amendments extending the authority through June 30, 1970.

AMENDMENTS

1969—Pub. L. 91–177 struck out "for which he is responsible" following "carry out the programs", and substituted "five" for "three".

SUBCHAPTER II.—URBAN AND RURAL COMMUNITY ACTION PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702, 2702a, 2944, 2949, 3103 of this title.

§ 2781. Congressional statement of purpose.

(a) This subchapter provides for community action agencies and programs, prescribes the structure and describes the functions of community action agencies and authorizes financial assistance to community action programs and related projects and activities. Its basic purpose is to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient. Its specific purposes are to promote, as methods of achieving a better focusing of resources on the goal of individual and family self-sufficiency—

(1) the strengthening of community capabilities for planning and coordinating Federal, State, and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions;

(2) the better organization of a range of services related to the needs of the poor, so that these services may be made more effective and efficient in helping families and individuals to overcome particular problems in a way that takes account of, and supports their progress in overcoming, related problems;

(3) the greater use, subject to adequate evaluation, of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources;

(4) the development and implementation of all programs and projects designed to serve the poor or low-income areas with the maximum feasible participation of residents of the areas and members of the groups served, so as to best stimulate and take full advantage of capabilities for self-advancement and assure that those programs and projects are otherwise meaningful to and widely utilized by their intended beneficiaries; and

(5) the broadening of the resource base of programs directed to the elimination of poverty, so as to secure, in addition to the services and assistance of public officials, private religious, charitable, and neighborhood organizations, and individual citizens, a more active role for business, labor, and professional groups able to provide employment opportunities or otherwise influence the quantity and quality of services of concern to the poor.

(b) It is further declared to be the purpose of this subchapter and the policy of the Office of Economic Opportunity to provide for basic education, health care, vocational training, and employment opportunities in rural America to enable the poor living in rural areas to remain in such areas and become self-sufficient therein. It shall not be the purpose of this subchapter or the policy of the Office of Economic Opportunity to encourage the rural poor to migrate to urban areas, inasmuch as it is the finding of Congress that continuation of such migration is frequently not in the best interests of the poor and tends to further congest the already overcrowded slums and ghettos of our Nation's cities. (Pub. L. 88–452, title II, § 201, Aug. 20, 1964, 78 Stat. 516; Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 690.)

AMENDMENTS

1967—Pub. L. 90–222 substituted a declaration of the purpose to be served by the entire subchapter including the strengthening of community capability for planning the coordination of efforts to eliminate poverty, better organization of the range of services related to the needs of the poor, innovation of services, participation of area residents, broadening of resource base of programs directed toward the elimination of poverty, and working to allow rural Americans to stay in such areas and avoid moving to urban areas for provisions setting out the purpose of only the general community action programs, defined as the stimulation and incentive for urban and rural and urban communities to mobilize their resources to combat poverty through community action programs.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART A.—COMMUNITY ACTION AGENCIES AND PROGRAMS

§ 2782. Community action programs.

CODIFICATION

Section, Pub. L. 88–452, title II, § 202, Aug. 20, 1964, 78 Stat. 516; Pub. L. 89–253, § 11, Oct 9, 1965, 79 Stat. 974; Pub. L. 89–794, title II, §§ 201–203, Nov 8, 1966, 80 Stat. 1456, 1457, defined the term "community action program", authorized the promulgation of additional criteria, provided for the residence of board members in the geographical areas represented, neighborhood participation, and procedures for adequate representation of groups of the poor, and was omitted in the general reorganization of Part A of this subchapter by Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 690.

SAVINGS PROVISIONS

Applicability until June 30, 1968, of the provisions of this section as in effect immediately prior to the enactment of Pub. L. 90–222, which was approved Dec. 23, 1967, and which omitted this section in the general reorganization of Part A of this subchapter by section 104 of Pub. L. 90–222, to community action agencies in existence and funded prior to the enactment of Pub. L. 90–222, with certain exceptions, and provision for the transfer of func-

tions, obligations, records, authority, and funds in agreements made prior to June 30, 1968, to agencies designated pursuant to sections 2790 and 2791 of this title as amended by Pub. L. 90–222, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§§ 2783 to 2789. Omitted.

CODIFICATION

Sections were omitted in the general reorganization of Part A of this subchapter by Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 691.

Section 2783, Pub. L. 88–452, title II, § 203, Aug. 20, 1964, 78 Stat. 517; Pub. L. 89–794, title II, § 204, Nov. 8, 1966, 80 Stat. 1458, covered the allotment of appropriated funds to States, the reservation of appropriations, limitation on allotments to Territories and possessions, the manner of allotment and reallotment, and a definition of "State".

Section 2784, Pub. L. 88–452, title II, § 204, Aug. 20, 1964, 78 Stat. 517, authorized grants and contracts for the development of community action programs.

Section 2785, Pub. L. 88–452, title II, § 205, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89–253, §§ 12, 13, Oct 9, 1965, 79 Stat. 974; Pub. L. 89–794, title II, §§ 205–211, Nov 8, 1966, 80 Stat. 1458–1460; covered the making of grants or contracts for the conduct and administration of community action programs, salary limits, a prohibition on aid to elementary and secondary education in schools, assistance eligibility, chronically unemployed poor, betterment and beautification of program area, funding of independent programs, independent programs in rural and urban areas, prohibition against membership of personnel of Office of Economic Opportunity in sponsoring organizations, financial controls within sponsoring organizations, audits, accounting, and family planning services.

Section 2786, Pub. L. 88–452, title II, §206, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89–794, title II, § 212(a), Nov 8, 1966, 80 Stat. 1461, authorized the Director to provide technical assistance and training for communities and to formulate and carry out small loan programs for small families to meet immediate and urgent family needs.

Section 2787, Pub. L. 88–452, title II, § 207, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89–794, title II, § 213, Nov 8, 1966, 80 Stat. 1461, covered research and demonstrations pertaining to the purposes of this part, limitation on expenditures, overall plans, reports, filing, review, and recommendations.

Section 2788, Pub. L. 88–452, title II, § 208, Aug. 20, 1964, 78 Stat. 519; Pub. L. 89–253, § 14, Oct 9, 1965, 79 Stat. 975; Pub. L. 89–794, title II, § 214, Nov. 8, 1966, 80 Stat. 1462, set out limitations on Federal assistance and provided for non-Federal contributions.

Section 2789, Pub. L. 88–452, title II, § 209, Aug. 20, 1964, 78 Stat. 519; Pub. L. 89–253, §§ 15, 16, 17, Oct 9, 1965, 79 Stat. 975, 976, provided for the participation of State agencies, the establishment of procedures in connection therewith, grant and contract authority, State approval of plans, notice to the Governor and the community action agency of application for programs, and the limitations upon the participation of private institutions.

§ 2790. Designation of community action agencies.

(a) Political subdivisions; public and private nonprofit agencies and organizations.

A community action agency shall be a State or political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or a public or private nonprofit agency or organization which has been designated by a State or such a political subdivision or combination of such subdivisions, which—

(1) has the power and authority and will perform the functions set forth in section 2795 of this title, including the power to enter into contracts with public and private nonprofit agencies and organizations to assist in fulfilling the purposes of this subchapter, and

(2) is determined to be capable of planning, conducting, administering and evaluating a community action program and is currently designated as a community action agency by the Director.

A community action program is a community based and operated program—

(1) which includes or is designed to include a sufficient number of projects or components to provide, in sum, a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(2) which has been developed, and which organizes and combines its component projects and activities, in a manner appropriate to carry out all the purposes of this subchapter; and

(3) which conforms to such other supplementary criteria as the Director may prescribe consistent with the purposes and provisions of this subchapter.

(b) Administration.

Components of a community action program may be administered by the community action agency, where consistent with sound and efficient management and applicable law, or by other agencies. They may be projects eligible for assistance under this subchapter, or projects assisted from other public or private sources; and they may be either specially designed to meet local needs, or designed pursuant to the eligibility standards of a State or Federal program providing assistance to a particular kind of activity which will help in meeting those needs.

(c) Organizational base and commonality of interests.

For the purpose of this subchapter, a community may be a city, county, multicity, or multicounty unit, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed for a community action program. The Director shall consult with the heads of other Federal agencies responsible for programs relating to work and training programs, physical and economic development, housing, education, health, and other community services to encourage the establishment of coterminous or complementary boundaries for planning purposes among those programs and community action programs assisted under this subchapter.

(d) Designation of substitute community action agency.

The Director may designate and provide financial assistance to a public or private nonprofit agency as a community action agency in lieu of a community action agency designated under subsection (a) of this section for activities of the kind described in this subchapter where he determines (1) that the community action agency serving the community has failed, after having a reasonable opportunity to do so, to submit a satisfactory plan for a community action program which meets the criteria for approval set forth in this subchapter, or to carry out such plan in a satisfactory manner, or (2) that neither the State nor any qualified political subdivision or combination of such subdivisions is willing to be designated as the community action agency for such community or to designate a public or

private nonprofit agency or organization to be so designated by the Director.

(e) Self-exclusion of political subdivisions.

No political subdivision of a State shall be included in the community action program of a community action agency designated under section 2790(a) of this title if the elected or duly appointed governing officials of such political subdivision do not wish to be so included. Such political subdivision, and any public or private nonprofit organization or agency designated by it, shall be eligible for designation as a community action agency on the same basis as other political subdivisions and their designees.

(f) Indian reservations.

For the purposes of this subchapter, a tribal government of an Indian reservation shall be deemed to be a political subdivision of a State. (Pub. L. 88–452, title II, § 210, Aug. 20, 1964, 78 Stat. 519; Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 691.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering the designation of community action agencies and their requisite organizational attributes, the administration of community action programs, the commonality of interest and organizational base required to qualify as a community for purposes of a program, the substitution of community action agencies when the designated agency has failed, the option for self-exclusion reserved to political subdivisions, and the inclusion of Indian reservations as political subdivisions for provisions covering the equitable distribution of assistance between urban and rural areas.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2791, 2826 of this title.

§ 2791. Community action agencies and boards.

(a) Administration by community action boards.

Each community action agency which is a State or a political subdivision of a State, or a combination of political subdivisions, shall administer its program through a community action board which shall meet the requirements of subsection (b) of this section. Each community action agency which is a public or private nonprofit agency or organization designated by a State or political subdivision of a State, or combination of political subdivisions, or is an agency designated by the Director under section 2790(d) of this title, shall have a governing board which shall meet the requirements of subsection (b) of this section.

(b) Make-up of boards; membership; term of service.

Each board to which this subsection applies shall consist of not more than fifty-one members and shall be so constituted that (1) one-third of the members of the board are public officials, including the chief elected official or officials, or their representatives, unless the number of such officials reasonably available or willing to serve is less than one-third of the membership of the board, (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served, and (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. Each member of the board selected to represent a specific geographic area within a community must reside in the area he represents. No person selected under clause (2) or (3) of this subsection as a member of a board shall serve on such board for more than three consecutive years, or more than a total of six years.

(c) Neighborhood based organizations.

Where a community action agency places responsibility for major policy determinations with respect to the character, funding, extent, and administration of and budgeting for programs to be carried on in a particular geographic area within the community in a subsidiary board, council, or similar agency, such board, council, or agency shall be broadly representative of such area, subject to regulations of the director which assure adequate opportunity for membership of elected public officials on such board, council, or agency. Each community action agency shall be encouraged to make use of neighborhood-based organizations composed of residents of the area or members of the groups served to assist such agency in the planning, conduct, and evaluation of components of the community action program.

(d) Administrative standards and rules; quorum.

(1) The Director shall promulgate such standards or rules relating to the scheduling and notice of meetings, quorums (which shall be not less than 50 per centum of the total membership), procedures, establishment of committees, and similar matters as he may deem necessary to assure that boards which are subject to subsection (b) of this section provide a continuing and effective mechanism for securing broad, community involvement in programs assisted under this subchapter and that all groups or elements represented on those boards have a full and fair opportunity to participate in decisions affecting those programs. Such standards or rules shall not preclude any such board from appointing an executive committee or similar group, which fairly reflects the composition of the board, to transact the board's business between its meetings. The quorum requirements for any such committee or group, which shall not be less than 50 percent of the membership, shall be established by the board.

(2) The Director shall require community action agencies to establish procedures under which community agencies and representative groups of the poor which feel themselves inadequately represented on the community action board or governing board may petition for adequate representation.

(e) Power of appointment; staff; determination of policies; program plans; priorities.

The powers of every community action agency governing board shall include the power to appoint persons to senior staff positions, to determine major personnel, fiscal, and program policies, to approve overall program plans and priorities, and to assure compliance with conditions of and approve proposals for financial assistance under this subchapter.

(f) Participation in program development and implementation; democratic selection procedures; participation of the poor; community involvement.

Each community action board referred to in the first sentence of subsection (a) of this section shall—

(1) have a full opportunity to participate in the development and implementation of all programs and projects designed to serve the poor or low-income areas with maximum feasible participation of residents of the areas and members of the groups served, so as to best stimulate and take full advantage of capabilities for self-advancement and assure that those programs and projects are otherwise meaningful to and widely utilized by their intended beneficiaries;

(2) have at least one-third of its members chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served;

(3) be so established and organized that the poor and residents of the area concerned will be enabled to influence the character of programs affecting their interests and regularly participate in the planning and implementation of those programs; and

(4) be a continuing and effective mechanism for securing broad community involvement in the programs assisted under this subchapter.

(Pub. L. 88–452, title II, § 211, Aug. 20, 1964, 78 Stat. 519; Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 693.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering the administration of programs by community action boards, the make-up of the boards, membership, and term of service, utilization of neighborhood based organizations, administrative standards and rules, powers of appointment, determination of policies, program plans, and priorities, and participation in program development and implementation for provisions directing that preference be given to programs and projects which are components of community action programs approved pursuant to this part.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2826 of this title.

§§ 2792 to 2794. Omitted.

CODIFICATION

Sections were omitted in the general reorganization of Part A of this subchapter by Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 691.

Section 2792, Pub. L. 88–452, title II, § 211–1, as added Pub. L. 89–794, title II, § 215, Nov. 8, 1966, 80 Stat. 1462, created the Headstart program for preschool children, and provided a program for legal services with the recommendations of local bar associations.

Section 2793, Pub. L. 88–452, title II, § 211–2, as added Pub. L. 89–794, title II, § 216, Nov. 8, 1966, 80 Stat. 1463, provided for comprehensive health services programs, the consultation with health agencies to assure professional supervision, covered narcotic addiction, and provided for reports to Congress and the President.

Section 2794, Pub. L. 88–452, title II, § 211–3, as added Pub. L. 89–794, title II, § 217, Nov. 8, 1966, 80 Stat. 1464, provided for special projects on adult basic education.

§ 2795. Specific powers and functions of community action agencies.

(a) In order to carry out its overall responsibility for planning, coordinating, evaluating, and administering a community action program, a community action agency must have authority under its charter or applicable law to receive and administer funds under this subchapter, funds and contributions from private or local public sources which may be used in support of a community action program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit agency (as the case may be) organized in accordance with this part could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a community action program. A community action agency must also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. This power to transfer funds and delegate powers must include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

(b) In exercising its powers and carrying out its overall responsibility for a community action program, a community action agency shall have, subject to the purposes of this subchapter, at least the following functions:

(1) Planning systematically for and evaluating the program, including actions to develop information as to the problems and causes of poverty in the community, determine how much and how effectively assistance is being provided to deal with those problems and causes, and establish priorities among projects, activities and areas as needed for the best and most efficient use of resources.

(2) Encouraging agencies engaged in activities related to the community action program to plan for, secure and administer assistance available under this subchapter or from other sources on a common or cooperative basis; providing planning or technical assistance to those agencies; and generally, in cooperation with community agencies and officials, undertaking actions to improve existing efforts to attack poverty, such as improving day-to-day communication, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible.

(3) Initiating and sponsoring projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs.

(4) Establishing effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, providing for their regular participation in the implementation of those programs, and providing technical and other support needed to enable the poor and neighborhood

groups to secure on their own behalf available assistance from public and private sources.

(5) Joining with and encouraging business, labor, and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to such things as developing new employment opportunities, stimulating investment that will have a measurable impact in reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

(Pub. L. 88–452, title II, § 212, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 694.)

PRIOR PROVISIONS

A prior section 212 of Pub. L. 88–452, set out as section 2801 of this title, was repealed by Pub. L. 89–750, title III, § 315, Nov. 8, 1966, 80 Stat. 1222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2796. Administrative standards; rules and regulations.

(a) Each community action agency shall observe, and shall (as appropriate) require or encourage other agencies participating in a community action program to observe, standards of organization, management and administration which will assure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this subchapter and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each community action agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each community action agency shall also provide for reasonable public access to information, including but not limited to public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible. And each community action agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits; to assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness; to guard against personal or financial conflicts of interests; and to define employee duties of advocacy on behalf of the poor in an appropriate manner which will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action which is in violation of law.

(b) The Director shall prescribe rules or regulations to supplement subsection (a) of this section, which shall be binding on all agencies carrying on community action program activities with financial assistance under this subchapter. He may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. These special requirements shall not, however, affect the applicability of rules governing conflicts of interest, use of position or authority for partisan or nonpartisan political purposes or participation in direct action, regardless of customary practices or rules among agencies in the community. The Director shall consult with the heads of other Federal agencies responsible for programs providing assistance to activities which may be included in community action programs for the purpose of securing maximum consistency between rules or regulations prescribed or followed by those agencies and those prescribed under this section. (Pub. L. 88–452, title II, § 213, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 695.)

PRIOR PROVISIONS

A prior section 213 of Pub. L. 88–452, set out as section 2802 of this title, was repealed by Pub. L. 89–750, title III, § 315, Nov. 3, 1966, 80 Stat. 1222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2797. Housing development and service organizations.

Each community action agency shall encourage the establishment of housing development and services organizations designed to focus on the housing needs of low-income families and individuals. Such organizations shall provide the technical, administrative, and financial assistance which is required to help low-income families and individuals more effectively to utilize existing programs, and which is required to enable nonprofit, cooperative, and public sponsors more effectively to take advantage of existing Federal, State, and local mortgage insurance and housing assistance programs. Where appropriate, such organizations may be nonprofit housing development corporations. Such corporations may themselves become sponsors of housing under existing programs of specialized housing agencies, but under no circumstances shall such corporations insure mortgages or duplicate the long-term capital financing functions of programs now administered by the specialized housing agencies. Housing development and service organizations shall coordinate their efforts with other community action agency efforts so that any programs undertaken under authority of this section shall be closely related to other community action programs. (Pub. L. 88–452, title II, § 214, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 696.)

PRIOR PROVISIONS

A prior section 214 of Pub. L. 88–452, set out as section 2803 of this title, was repealed by Pub. L. 89–750, title III, § 315, Nov. 3, 1966, 80 Stat. 1222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART B.—FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS AND RELATED ACTIVITIES

§§ 2801 to 2807. Repealed. Pub. L. 89–750, title III, § 315, Nov. 3, 1966, 80 Stat. 1222.

Section 2801, Pub. L. 88–452, title II, § 212, Aug. 20, 1964, 78 Stat. 520, set out the declaration of purpose for adult basic education programs. See section 1201 of Title 20, Education.

Section 2802, Pub. L. 88–452, title II, § 213, Aug. 20, 1964, 78 Stat. 520; Pub. L. 89–253, § 19(1), Oct. 9, 1965, 79 Stat. 976; Pub. L. 89–794, title IX, § 901(c), Nov. 8, 1966, 80 Stat. 1475, provided for the making of grants to States having approved plans for adult basic education programs. See sections 1203 and 1204 of Title 20, Education.

Section 2803, Pub. L. 88–452, title II, § 214, Aug. 20, 1964, 78 Stat. 520, set out the requirements for State plans and made provision for a hearing. See section 1205 of Title 20, Education.

Section 2804, Pub. L. 88–452, title II, § 215, Aug. 20, 1964, 78 Stat. 521, set out the manner of allotting grant funds to the States and outlying areas. See section 1204 of Title 20, Education.

Section 2805, Pub. L. 88–452, title II, § 216, Aug. 20, 1964, 78 Stat. 522; Pub. L. 89–253, § 18, Oct. 9, 1965, 79 Stat. 976, provided for the methods of payment of the Federal share of expenditures. See section 1206 of Title 20, Education.

Section 2806, Pub. L. 88–452, title II, § 217, Aug. 20, 1964, 78 Stat. 522, provided for termination of payments for noncompliance with the State plan and for hearings and judicial review. See section 1207 of Title 20, Education.

Section 2806a, Pub. L. 88–452, title II, § 218, as added Pub. L. 89–253, § 19(2), Oct. 9, 1965, 79 Stat. 976, made provision for teacher training projects. See section 1208 of Title 20, Education.

Section 2807, Pub. L. 88–452, title II, § 219, formerly § 218, Aug. 20, 1964, 78 Stat. 523, as renumbered Pub. L. 89–253, § 19(2), Oct. 9, 1965, 79 Stat. 976, set out the definitions of terms. See section 1202 of Title 20, Education.

§ 2808. General provisions for financial assistance.

(a) Component activities.

The Director may provide financial assistance to community action agencies for the planning, conduct, administration and evaluation of community action programs and components. Those components may involve, without limitation, other activities and supporting facilities designed to assist participants including the elderly poor—

(1) to secure and retain meaningful employment;

(2) to attain an adequate education;

(3) to make better use of available income;

(4) to provide and maintain adequate housing and a suitable living environment;

(5) to undertake family planning, consistent with personal and family goals, religious and moral convictions;

(6) to obtain services for the prevention of narcotics addiction, alcoholism, and the rehabilitation of narcotic addicts and alcoholics;

(7) to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

(8) to remove obstacles and solve personal and family problems which block the achievement of self-sufficiency;

(9) to achieve greater participation in the affairs of the community; and

(10) to make more frequent and effective use of other programs related to the purposes of this subchapter.

He may also provide financial assistance to other public or private nonprofit agencies to aid them in planning for the establishment of a community action agency.

(b) Use of agencies outside designated community action agencies.

If the Director determines that a limited purpose project or program involving activities otherwise eligible under this section is needed to serve needs of low-income families and individuals in a community and no community action agency has been designated for that community pursuant to section 2790 of this title, or where a community action agency gives its approval for such a program to be funded directly through a public or private nonprofit agency or organization, he may extend financial assistance for that project or program to a public or private nonprofit agency which he finds is capable of carrying out the project in an efficient and effective manner consistent with the purpose of this subchapter.

(c) Rules and regulations.

The Director shall prescribe necessary rules or regulations governing applications for assistance under this section to assure that every reasonable effort is made by each applicant to secure the views of local public officials and agencies in the community having a direct or substantial interest in the application and to resolve all issues of cooperation and possible duplication prior to its submission.

(d) Systematic planning and implementation processes.

After July 1, 1968, the Director shall require, as a condition of assistance, that each community action agency has adopted a systematic approach to the achievement of the purposes of this subchapter and to the utilization of funds provided under this part. Such systematic approach shall encompass a planning and implementation process which seeks to identify the problems and causes of poverty in the community, seeks to mobilize and coordinate relevant public and private resources, establishes program priorities, links program components with one another and with other relevant programs, and provides for evaluation. The Director may, however, extend the time for such requirement to take into account the length of time a program has been in operation. He shall also take necessary steps to assure the participation of other Federal agencies in support of the development and implementation of plans under this subsection.

(e) Establishment of binding national priorities prohibited.

In order to promote local responsibility and initiative, the Director shall not establish binding national priorities on funds authorized by this section, but he shall review each application for financial assistance on its merits. Before extending financial assistance to a new community action agency under this section, and in determining the amount of and conditions on which such assistance shall be extended, the Director shall consider the extent and nature of

poverty in the community and the probable capacity of the agency to carry out an effective program. In reviewing or supplementing financial assistance to a previously existing community action agency, he shall consider the progress made in carrying on programs by such agency. (Pub. L. 88-452, title II, § 221, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 696.)

PRIOR PROVISIONS

A prior section 221 of Pub. L. 88-452, set out as section 2831 of this title, was omitted in the general reorganization of Part D of this subchapter by section 104 of Pub. L. 90-222.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702a, 2812, 2826, 2944 of this title.

§ 2809. Special programs and assistance; Project Headstart; Follow Through; Legal Services; Comprehensive Health Services; Upward Bound; Emergency Food and Medical Services; Family Planning; Senior Opportunities and Services; Alcoholic Counseling and Recovery; Drug Rehabilitation.

(a) In order to stimulate actions to meet or deal with particularly critical needs or problems of the poor which are common to a number of communities, the Director may develop and carry on special programs under this section. This authority shall be used only where the Director determines that the objectives sought could not be effectively achieved through the use of authorities under section 2808 of this title, including assistance to components or projects based on models developed and promulgated by him. It shall also be used only with respect to programs which (A) involve activities which can be incorporated into or be closely coordinated with community action programs, (B) involve significant new combinations of resources of new and innovative approaches, or (C) are structured in a way that will, within the limits of the type of assistance or activities contemplated, most fully and effectively promote the purposes of this subchapter. Subject to such conditions as may be appropriate to assure effective and efficient administration, the Director may provide financial assistance to public or private nonprofit agencies to carry on local projects initiated under such special programs; but he shall do so in a manner that will encourage, wherever feasible, the inclusion of the assisted projects in community action programs, with a view to minimizing possible duplication and promoting efficiencies in the use of common facilities and services, better assisting persons or families having a variety of needs, and otherwise securing from the funds committed the greatest possible impact in promoting family and individual self-sufficiency. Programs under this section shall include those described in the following paragraphs:

(1) A program to be known as "Project Headstart" focused upon children who have not reached the age of compulsory school attendance which (A) will provide such comprehensive health, nutritional, education, social, and other services as the Director finds will aid the children to attain their full potential, and (B) will provide for direct participation of the parents of such children in the development, conduct, and overall program direction at the local level. Pursuant to such regulations as the Director may prescribe, persons who are not members of low-income families may be permitted to receive services in projects assisted under this paragraph. A family which is not low income shall be required to make payment, or have payment made in its behalf, in whole or in part for such services where the family's income is, or becomes through employment or otherwise, such as to make such payment appropriate.

(2) A program to be known as "Follow Through" focused primarily upon children in kindergarten or elementary school who were previously enrolled in Headstart or similar programs and designed to provide comprehensive services and parent participation activities as described in paragraph (1), which the Director finds will aid in the continued development of children to their full potential. Funds for such program shall be transferred directly from the Director to the Secretary of Health, Education, and Welfare. Financial assistance for such projects shall be provided by the Secretary on the basis of agreements reached with the Director directly to local educational agencies except as otherwise provided by such agreements.

(3) A "Legal Services" program to further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, legal counseling, education in legal matters, and other appropriate legal services. Projects involving legal advice and representation shall be carried on in a way that assures maintenance of a lawyer-client relationship consistent with the best standards of the legal profession. The Director shall make arrangements under which the State bar association and the principal local bar associations in the community to be served by any proposed project authorized by this paragraph shall be consulted and afforded an adequate opportunity to submit, to the Director, comments and recommendations on the proposed project before such project is approved or funded, and to submit, to the Director, comments and recommendations on the operations of such project, if approved and funded. No funds or personnel made available for such program (whether conducted pursuant to this section or any other section in this part) shall be utilized for the defense of any person indicted (or proceeded against by information) for the commission of a crime, except in extraordinary circumstances where, after consultation with the court having jurisdiction, the Director has determined that adequate legal assistance will not be available for an indigent defendant unless such services are made available. Members of the Armed Forces, and members of their immediate families, shall be eligible to obtain legal services under such programs in cases of extreme hardship (determined in accordance with regulations of the Director issued after consultation with the Secretary of Defense): *Provided,* That nothing in this sentence shall be so construed as to require the Director to expand or enlarge

existing programs or to initiate new programs in order to carry out the provisions of this sentence unless and until the Secretary of Defense assumes the cost of such services and has reached agreement with the Director on reimbursement for all such additional costs as may be incurred in carrying out the provisions of this sentence.

(4) A "Comprehensive Health Services" program which shall include—

(A) programs to aid in developing and carrying out comprehensive health services projects focused upon the needs of urban and rural areas having high concentrations or proportions of poverty and marked inadequacy of health services for the poor. These projects shall be designed—

(i) to make possible, with maximum feasible use of existing agencies and resources, the provision of comprehensive health services, such as preventive medical, diagnostic, treatment, rehabilitation, family planning, narcotic addiction and alcoholism prevention and rehabilitation, mental health, dental, and followup services, together with necessary related facilities and services, except in rural areas where the lack of even elemental health services and personnel may require simpler, less comprehensive services to be established first; and

(ii) to assure that these services are made readily accessible to low-income residents of such areas, are furnished in a manner most responsive to their needs and with their participation and wherever possible are combined with, or included within, arrangements for providing employment, education, social, or other assistance needed by the families and individuals served: *Provided, however,* That such services may be made available on an emergency basis or pending a determination of eligibility to all residents of such areas.

Funds for financial assistance under this paragraph shall be allotted according to need, and capacity of applicants to make rapid and effective use of that assistance, and may be used, as necessary, to pay the full costs of projects. Before approving any project, the Director shall solicit and consider the comments and recommendations of the local medical associations in the area and shall consult with appropriate Federal, State, and local health agencies and take such steps as may be required to assure that the program will be carried on under competent professional supervision and that existing agencies providing related services are furnished all assistance needed to permit them to plan for participation in the program and for the necessary continuation of those related services; and

(B) Programs to provide financial assistance to public or private agencies for projects designed to develop knowledge or enhance skills in the field of health services for the poor. Such projects shall encourage both prospective and practicing health professionals to direct their talents and energies toward providing health services for the poor. In carrying out the provisions of this paragraph, the Director is authorized to provide or arrange for training and study in the field of health services for the poor. Pursuant to regulations prescribed by him, the Director may arrange for the payment of stipends and allowances (including travel and subsistence expenses) for persons undergoing such training and study and for their dependents. The Director and the Secretary of Health, Education, and Welfare shall achieve effective coordination of programs and projects authorized under this section with other related activities.

(5) A program to be known as "Emergency Food and Medical Services" designed to provide on an emergency basis, directly or by delegation of authority pursuant to the provisions of subchapter VI of this chapter, financial assistance for the provisions of such medical supplies and services, nutritional foodstuffs, and related services, as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be extended under the provisions of other Federal programs, and may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided and without regard to the requirements of such laws for local or State administration or financial participation. In extending such assistance, the Director may make grants to community action agencies or local public or private nonprofit organizations or agencies to carry out the purposes of this paragraph. The director is authorized to carry out the functions under this paragraph through the Secretary of Agriculture and the Secretary of Health, Education, and Welfare in a manner that will insure the availability of such medical supplies and services, nutritional foodstuffs, and related services through a community action agency where feasible, or other agencies or organizations if no such agency exists or is able to administer programs to provide such foodstuffs, medical services, and supplies to needy individuals and families.

(6) A "Family Planning" program to provide assistance and services to low-income persons in the field of voluntary family planning, including the provision of information, medical assistance, and supplies. The Director and the Secretary of Health, Education, and Welfare shall coordinate, and assure a full exchange of information concerning, family planning projects within their respective jurisdictions in order to assure the maximum availability of services and in order best to meet the varying needs of different communities. The Secretary of Health, Education, and Welfare shall make the services of Public Health Service officers available to the Director in carrying out this program.

(7) A program to be known as "Senior Opportunities and Services" designed to identify and meet the needs of older, poor persons above the age of 60 in one or more of the following areas: development and provision of new employment and volunteer services; effective referral to existing

health, welfare, employment, housing, legal, consumer, transportation, education, and recreational and other services; stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; modification of existing procedures, eligibility requirements and program structures to facilitate the greater use of, and participation in, public services by the older poor; development of all-season recreation and service centers controlled by older persons themselves; and such other activities and services as the Director may determine are necessary or specially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency. In administering this program the Director shall utilize to the maximum extent feasible the services of the Administration of Aging in accordance with agreements with the Secretary of Health, Education, and Welfare.

(8) An "Alcoholic Counseling and Recovery" program designed to discover and treat the disease of alcoholism. Such program should be community based, serve the objective of the maintenance of the family structure as well as the recovery of the individual alcoholic, encourage the use of neighborhood facilities and the services of recovered alcoholics as counselors, and emphasize the reentry of the alcoholic into society rather than the institutionalization of the alcoholic. Of the sums appropriated or allocated for programs authorized under this subchapter, the Director shall reserve and make available not less than $10,000,000 for the fiscal year ending June 30, 1970, and not less than $15,000,000 for the fiscal year ending June 30, 1971, for the purpose of carrying out this program.

(9) A "Drug Rehabilitation" program designed to discover the causes of drug abuse and addiction, to treat narcotic and drug addiction and the dependence associated with drug abuse, and to rehabilitate the drug abuser and drug addict. Such program should deal with the abuse or addiction resulting from the use of narcotic drugs such as heroin, opium, and cocaine, stimulants such as amphetamines, depressants, marihuana, hallucinogens, and tranquilizers. Such program should be community based, serve the objective of the maintenance of the family structure as well as the recovery of the individual drug abuser or addict, encourage the use of neighborhood facilities and the services of recovered drug abusers and addicts as counselors, and emphasize the reentry of the drug abuser and addict into society rather than his institutionalization. Of the sums appropriated or allocated for programs authorized under this subchapter, the Director shall reserve and make available not less than $5,000,000 for the fiscal year ending June 30, 1970, and not less than $15,000,000 for the fiscal year ending June 30, 1971, for the purpose of carrying out this program.

(b) Consistent with, and subject to, the provisions of sections 2823 and 2825(a), (b), and (c) of this title, programs under this section may include related training, research, and technical assistance, and funds allocated for this purpose may be alloted and used in the manner otherwise provided under this subchapter with respect to training, research, and technical assistance activities. (Pub. L. 88–452, title II, § 222, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 698, and amended Pub. L. 90–575, title I, § 105(b), Oct. 16, 1968, 82 Stat. 1019; Pub. L. 91–177, title I, §§ 103–106, Dec. 30, 1969, 83 Stat. 828, 829.)

AMENDMENTS

1969—Subsec. (a)(1). Pub. L. 91–177, § 103, added provision whereby persons not members of low-income families could receive services in Headstart Projects.

Subsec. (a)(3). Pub. L. 91–177, § 104, substituted "legal counseling, education in legal matters, and other appropriate legal services" for "counseling, education and other appropriate services" and extended, in cases of extreme hardship, the legal services program to members of the armed forces and their immediate families.

Subsec. (a)(5). Pub. L. 91–177, § 105, broadened the Director's authority to provide emergency food and medical services to the poor by permitting him to act on his own initiative or by delegation of authority, by authorizing him to provide financial assistance for such services in supplement to other federal programs, irrespective of local laws, and by enabling him to authorize grants to community action agencies and local non-profit organizations; and struck out provisions setting limits on the use of funds appropriated for this program.

Subsecs. (a)(8), (9). Pub. L. 91–177, § 106, added pars. (8) and (9).

1968—Subsec. (a)(5). Pub. L. 90–575 redesignated subsec. (a)(6) as (a)(5). Former subsec. (a)(5), setting forth the provisions of the "Upward Bound" program, was struck out.

Subsec. (a)(6)—(8). Pub. L. 90–575 redesignated subsec. (a)(6)—(8) as (a)(5)—(7).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 105(b) of Pub. L. 90–575 provided in part that the amendments made by Pub. L. 90–575 to subsec. (a)(5)—(8) of this section shall become effective July 1, 1969.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

TRANSFER OF FUNCTIONS; UPWARD BOUND PROGRAM

Section 105(c) of Pub. L. 90–575 provided that:

"(1) On July 1, 1969, all functions, powers, and duties of the Director of the Office of Economic Opportunity with respect to Upward Bound programs, are transferred to the Commissioner of Education. No provision of law which limits the number of persons who may be appointed as full-time civilian employees, or temporary and part-time employees, in the executive branch of the Government shall apply to employees of the Office of Education whose duties the Director of the Bureau of the Budget [now the Director of the Office of Management and Budget] determines primarily relate (A) to programs carried out under section 408(b)(2) of the Higher Education Act of 1965 [section 1068(b)(2) of Title 20], or (B) to functions transferred by this paragraph. In applying any such provision of law to the departments and agencies in the executive branch, the number of such employees of the Office of Education shall not be taken into account.

"(2) For purposes of this subsection the term 'Upward Bound program' means a program carried out under section 222(a)(5) of the Economic Opportunity Act of 1964 [section 2809(a)(5) of this title] (as so designated prior to the amendment made by subsection (b) of this section [amending this section]) or a comparable program carried out under section 221 of such Act [section 2808 of this title]."

LEGAL SERVICES PROGRAM; DELEGATION OF POWERS OR FUNCTIONS PROHIBITED

Section 114 of Pub. L. 91–177 provided that: "The authority of section 602(d) of the Economic Opportunity Act of 1964 [section 2942(d) of this title] shall not apply to the Legal Services program authorized under section 222(a)(3) of such Act [subsec. (a)(3) of this section]. The Director of the Office of Economic Opportunity shall

not delegate the program authorized under such section 222(a)(3) [subsec. (a)(3) of this section] to any other existing Federal agency."

STUDY OF HEAD START PROGRAM

Pub. L. 90-576, title III, § 309, Oct. 16, 1968, 82 Stat. 1098, directed the President to make a special study of whether the responsibility for administering the Head Start program established under the Economic Opportunity Act of 1964 [Pub. L. 88-452] should continue to be vested in the Director of the Office of Economic Opportunity, should be transferred to another agency of the Government, or should be delegated to another such agency pursuant to the provisions of section 602(d) of the aforementioned Economic Opportunity Act of 1964 [section 2942(d) of this title], and directed him to submit the findings of this study to the Congress not later than March 1, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702a, 2812, 2826, 2809, 2944 of this title.

§ 2810. Resident employment.

In the conduct of all component programs under this part, residents of the area and members of the groups served shall be provided maximum employment opportunity, including opportunity for further occupational training and career advancement. The Director shall encourage the employment of persons fifty-five years and older as regular, part-time and short-term staff in component programs. (Pub. L. 88-452, title II, § 223, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 701.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

§ 2811. Neighborhood centers.

The Director shall encourage the development of neighborhood centers, designed to promote the effectiveness of needed services in such fields as health, educations, manpower, consumer protection, child and economic development, housing, legal, recreation, and social services, and so organized (through a corporate or other appropriate framework) as to promote maximum participation of neighborhood residents in center planning, policymaking, administration, and operation. In addition to providing such services as may not otherwise be conveniently or readily available, such centers shall be responsive to such neighborhood needs, such as counseling, referral, follow-through, and community development activities, as may be necessary or appropriate to best assure a system under which existing programs are extended to the most disadvantaged, are linked to one another, are responsive and relevant to the range of community, family, and individual problems and are fully adapted to neighborhood needs and conditions. (Pub. L. 88-452, title II, § 224, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 701.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

§ 2812. Allotment of funds; limitations on assistance.

(a) Of the sums which are appropriated or allocated for assistance in the development and implementation of community action programs pursuant to section 2808 of this title, and for special program projects referred to in section 2809(a) of this title, and which are not subject to any other provision governing allotment or distribution, the Director shall allot not more than 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. He shall also reserve not more than 20 per centum of those sums for allotment in accordance with such criteria and procedures as he may prescribe. The remainder shall be alloted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, (2) the average number of unemployed persons in each State as compared to all States, and (3) the relative number of related children living with families with incomes of less than $1,000 in each State as compared to all States. That part of any State's allotment which the Director determines will not be needed may be reallotted, at such dates during the fiscal year as the Director may fix, in proportion to the original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is similarly reallotted among the other States.

(b) The Director may provide for the separate allotment of funds for any special program referred to in section 2809(a) of this title. This allotment may be made in accordance with the criteria prescribed in subsection (a) of this section, or it may be made in accordance with other criteria which he determines will assure an equitable distribution of funds reflecting the relative incidence in each State of the needs or problems at which the program is directed, except that in no event may more than 12½ per centum of the funds for any one program be used in any one State.

(c) Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to sections 2808 and 2809(a) of this title, for the period ending June 30, 1967, shall not exceed 90 per centum of the approved cost of the assisted programs or activities, and thereafter shall not exceed 80 per centum of such costs. The Director may, however, approve assistance in excess of such percentages if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter, Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant equipment, or services. If in any fiscal year, a community provides non-Federal contributions under this subchapter exceeding its requirements under this section, such excess may be used to meet its requirements for such contributions under section 2748 of this title.

(d) No program shall be approved for assistance under sections 2808 and 2809(a) of this title unless the Director satisfies himself (1) that the services to be provided under such program will be in addition to, and not in substitution for, services previously provided without Federal assistance, and (2) that funds or other resources devoted to programs designed to meet the needs of the poor within the community will not be diminished in order to provide

any contributions required under subsection (c) of this section. The requirement imposed by the preceding sentence shall be subject to such regulations as the Director may adopt and promulgate establishing objective criteria for determinations covering situations where a strict application of that requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes sought to be achieved. (Pub. L. 88–452, title II, § 225, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 702.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2748, 2836 of this title.

PART C.—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

§§ 2821, 2822. Omitted.

CODIFICATION

Sections were omitted in the general reorganization of Part C of this subchapter by Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.

Section 2821, Pub. L. 88–452, title II, § 219–1, formerly § 219, Aug. 20, 1964, 78 Stat. 523, renumbered Pub. L. 89–794, title IX, § 901(b), Nov. 8, 1966, 80 Stat. 1475, set out the statement of purpose for the voluntary assistance program for needy children.

Section 2822, Pub. L. 88–452, title II, § 220, Aug. 20, 1964, 78 Stat. 523; Pub. L. 89–253, § 20, Oct. 9, 1965, 79 Stat. 976, provided for the establishment within the Office of Economic Opportunity of an information and coordinating center but prohibiting the interference with jurisdiction of State and local welfare agencies with respect to programs for needy children.

§ 2823. Technical assistance and training.

The Director may provide, directly or through grants or other arrangements, (1) technical assistance to communities in developing, conducting, and administering programs under this subchapter, and (2) training for specialized or other personnel which is needed in connection with those programs or which otherwise pertains to the purposes of this subchapter. Upon request of an agency receiving financial assistance under this subchapter, the Director may make special assignments of personnel to the agency to assist and advise it in the performance of functions related to the assisted activity; but no such special assignment shall be for a period of more than two years in the case of any agency. (Pub. L. 88–452, title II, § 230, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2809, 2826 of this title.

§ 2824. State agency assistance.

(a) The Director may provide financial assistance to State agencies designated in accordance with State law, to enable those agencies—

(1) to provide technical assistance to communities and local agencies in developing and carrying out programs under this subchapter;

(2) to assist in coordinating State activities related to this subchapter;

(3) to advise and assist the Director in developing procedures and programs to promote the participation of States and State agencies in programs under this subchapter; and

(4) to advise and assist the Director, the Economic Opportunity Council established by section 2973 of this title, and the heads of other Federal agencies, in identifying problems posed by Federal statutory or administrative requirements that operate to impede State level coordination of programs related to this subchapter, and in developing methods of recommendations for overcoming those problems.

(b) In any grants or contracts with State agencies, the Director shall give preference to programs or activities which are administered or coordinated by the agencies designated pursuant to subsection (a) of this section, or which have been developed and will be carried on with the assistance of those agencies.

(c) In order to promote coordination in the use of funds under this chapter and funds provided or granted by State agencies, the Director may enter into agreements with States or State agencies pursuant to which they will act as agents of the United States for purposes of providing financial assistance to community action agencies or other local agencies in connection with specific projects or programs involving the common or joint use of State funds and funds under this subchapter. (Pub. L. 88–452, title II, § 231, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2746, 2826, 2974 of this title.

§ 2825. Research and pilot programs.

(a) Development of new approaches and methods.

The Director may contract or provide financial assistance for pilot or demonstration projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise in furthering the purposes of this subchapter. He may also contract or provide financial assistance for research pertaining to the purposes of this subchapter.

(b) Development of overall plan.

The Director shall establish an overall plan to govern the approval of pilot or demonstration projects and the use of all research authority under this subchapter. The plan shall set forth specific objectives to be achieved and priorities among such objectives. In formulating the plan, the Director shall consult with other Federal agencies for the purpose of minimizing duplication among similar activities or projects and determining whether the findings resulting from any research or pilot projects may be incorporated into one or more programs for which those agencies are responsible. As part of the annual report required by section 2948 of this title, or in a separate

annual report, the Director shall submit a description for each fiscal year of the current plan required by this section, of activities subject to the plan, and of the findings derived from those activities, together with a statement indicating the time and, to the extent feasible, the manner in which the benefits of those activities and findings are expected to be realized.

(c) Limitation and allocation of funds.

Not more than 15 per centum of the sums appropriated or allocated in any fiscal year for this subchapter shall be used for the purposes of this section. One-third of the sums so appropriated or allocated shall be available only for projects authorized under subsection (f) of this section.

(d) Approval of project by local government or community action agency.

No pilot or demonstration project under this section shall be commenced in any city, county, or other major political subdivision, unless a plan setting forth such proposed pilot or demonstration project has been submitted to the appropriate community action agency, or, if there is no such agency, to the local governing officials of the political subdivision, and such plan has not been disapproved by the community action agency or governing body, as the case may be, within thirty days of such submission, or, if so disapproved, has been reconsidered by the Director and found by him to be fully consistent with the provisions and in furtherance of the purposes of this subchapter.

(e) Particular pilot projects.

The Director shall develop and carry out pilot projects which (1) aid elderly persons to achieve greater self-sufficiency, (2) focus upon the problems of rural poverty, (3) are designed to develop new techniques and community-based efforts to prevent narcotics addiction or to rehabilitate narcotic addicts, or (4) are designed to encourage the participation of private organizations, other than nonprofit organizations, in programs under this subchapter.

(f) Migration from rural to urban areas.

The Director shall conduct, either directly or through grants or other arrangements, research and pilot projects designed to assure a more effective use of human and natural resources of rural America and to slow the migration from rural areas due to lack of economic opportunity, thereby reducing population pressures in urban centers. Such projects may be operated jointly or in cooperation with other federally assisted programs, particularly programs authorized under the Public Works and Economic Development Act of 1965, in the area to be served by the project. (Pub. L. 88–452, title II, § 232, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 703.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (f), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, which is classified to chapter 38 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2809, 2833 of this title.

§ 2826. Evaluation; reports; independent studies.

(a) The Director shall provide for the continuing evaluation of programs under this subchapter, including their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for the delivery of services and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs. He may, for this purpose, contract for independent evaluations of those programs or individual projects. He may require community action agencies to provide for independent evaluations, and where appropriate, he may also require a community action agency to establish an independent group or committee to provide evaluation and advisory services on either a short-term or continuing basis. He shall consult with other Federal agencies, or where appropriate with State agencies, in order to provide wherever feasible for jointly sponsored objective evaluation studies on a National or State basis. He shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs. The reports of studies undertaken under this section, together with the comments of the Director and other agencies, if any, shall be public records, and the results shall be summarized in the report required by section 2948 of this title.

(b) The Director shall develop and publish standards for evaluation of program effectiveness in achieving the objectives of this subchapter. Such standards shall be considered in deciding whether to renew or supplemental [1] financial assistance provided by sections 2808, 2809, 2823, and 2824 of this title.

(c) The Director shall provide by contract for the conduct of an independent study and evaluation of the action taken under sections 2790 and 2791 of this title and the effects thereof, with particular reference to (1) the exercise of their authorities under the provisions of subchapter II of this chapter by States and political subdivisions, (2) the participation of residents of the areas and members of the groups served, public officials and others and (3) the administrative and program advantages and disadvantages, if any, encountered or foreseen in implementing such sections. He shall transmit such study and evaluation to the Congress before April 1, 1969. (Pub. L. 88–452, title II, § 233, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 704.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART D.—GENERAL AND TECHNICAL PROVISIONS

§ 2831. Duration of programs.

CODIFICATION

Section, Pub. L. 88–452, title II, § 221, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89–253, § 30(b), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title II, § 218, Nov. 8, 1966, 80 Stat. 1464, extended the program through June 30, 1970, and provided that only such sums may be appropriated as the Congress might authorize by law, and was omitted in the general reorganization of Part D of this subchapter by Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 705. See section 2837 of this title.

[1] So in original.

§ 2832. Assistant Directors for Community Action.

The Director shall appoint two assistant directors for the purpose of assisting the Director in the administration of the provisions of this subchapter. One such assistant director, to be known as the Assistant Director for Community Action in Rural Areas, shall be responsible for assuring that funds allotted for assistance to programs or projects designed to assist the rural poor are so expended. The other assistant director, to be known as the Assistant Director for Community Action in Urban Areas, shall be responsible for assuring that funds allotted for assistance to programs or projects designed to assist the urban poor are so expended. Each assistant director shall have such additional responsibilities consistent with the foregoing responsibilities as the Director may hereafter assign. (Pub. L. 88–452, title II, § 240, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 705.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2833. Rural areas.

(a) Steps to extend benefits to rural residents.

In exercising authority under this subchapter, the Director shall take necessary steps to further the extension of benefits to residents of rural areas, consistent with the extent and severity of poverty among rural residents, and to encourage high levels of managerial and technical competence in programs undertaken in rural areas. These steps shall include, to the maximum extent practicable, (1) the development under section 2809(a) of this title of programs particularly responsive to special needs of rural areas; (2) the establishment, pursuant to section 2825 of this title, of a program of research and pilot project activities specifically focused upon the problems of rural poverty; (3) the provision of technical assistance so as to afford a priority to agencies in rural communities and to aid those agencies, through such arrangements as may be appropriate, in securing assistance under Federal programs which are related to this subchapter but which are not generally utilized in rural areas; and (4) the development of special or simplified procedures, forms, guidelines, model components, and model programs for use in rural areas.

(b) Criteria for equitable distribution of assistance between urban and rural areas.

The Director shall establish criteria designed to achieve an equitable distribution of assistance under this subchapter within the States between urban and rural areas. In developing such criteria, he shall consider the relative number in the States or areas therein of: (1) low-income families, particularly those with children; (2) unemployed persons; (3) persons receiving cash or other assistance on a needs basis from public agencies or private organizations; (4) school dropouts; (5) adults with less than an eighth-grade education; (6) persons rejected for military service; and (7) poor persons living in urban places compared to the number living in rural places as determined by the latest reports of the Bureau of the Census.

(c) Assistance to public and private nonprofit agencies.

Notwithstanding any other provision of this subchapter, the Director is authorized to provide financial assistance in rural areas to public or private nonprofit agencies for any project for which assistance to community action agencies is authorized, if he determines that it is not feasible to establish a community action agency within a reasonable period of time. The assistance so granted shall be subject to such conditions as the Director deems appropriate to promote adherence to the purposes of this subchapter and the early establishment of a community action agency in the area.

(d) Urban-rural cooperation.

The Director shall encourage the development of programs for the interchange of personnel, for the undertaking of common or related projects, and other methods of cooperation between urban and rural communities, with particular emphasis on fostering cooperation in situations where it may contribute to new employment opportunities, and between larger urban communities with concentrations of low-income persons and families and rural areas in which substantial numbers of those persons and families have recently resided. (Pub. L. 88–452, title II, § 241, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 705.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2834. Submission of plans to governors.

In carrying out the provisions of this subchapter, no contract, agreement, grant, loan, or other assistance shall be made with, or provided to, any State or local public agency or any private institution or organization for the purpose of carrying out any program, project, or other activity within a State unless a plan setting forth such proposed contract, agreement, grant, loan, or other assistance has been submitted to the Governor of the State, and such plan has not been disapproved by the Governor within thirty days of such submission, or, if so disapproved, has been reconsidered by the Director and found by him to be fully consistent with the provisions and in furtherance of the purposes of this subchapter. Funds to cover the costs of the proposed contract, agreement, grant, loan, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to the Governor. This section shall not, however, apply to contracts, agreements, grants, loans, or other assistance to any institution of higher education in existence on the date of the approval of this chapter. (Pub. L. 88–452, title II, § 242, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 706, and amended Pub. L. 91–177, title I, § 107(a), Dec. 30, 1969, 83 Stat. 830.)

AMENDMENTS

1969—Pub. L. 91–177 provided that a proposed contract, grant, loan, or other assistance shall be obligated, if finally approved, out of the appropriation for the fiscal year current at the beginning of the thirty day period afforded the governor for his consideration.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

CONFIRMATION AND RATIFICATION OF OBLIGATIONS RECORDED PRIOR TO DEC. 30, 1969

Section 107(b) of Pub. L. 91-177 provided that: "All obligations under the Economic Opportunity Act of 1964 [this chapter] which have been heretofore recorded substantially as provided in the amendment made by subsection (a) of this section are hereby confirmed and ratified."

§ 2835. Fiscal responsibility and audit.

(a) Accounting system.

No funds shall be released to any agency receiving financial assistance under this subchapter until it has submitted to the Director a statement certifying that the assisted agency and its delegate agencies (or subcontractors for performance of any major portion of the assisted program) have established an accounting system with internal controls adequate to safeguard their assets, check the accuracy and reliability of the accounting data, promote operating efficiency and encourage compliance with prescribed management policies and such additional fiscal responsibility and accounting requirements as the Director may establish. The statement may be furnished by a certified public accountant, a duly licensed public accountant or, in the case of a public agency, the appropriate public financial officer who accepts responsibility for providing required financial services to that agency.

(b) Preliminary audit survey.

Within three months after the effective date of a grant to or contract of assistance with an organization or agency, the Director shall make or cause to be made a preliminary audit survey to review and evaluate the adequacy of the accounting system and internal controls established thereunder to meet the standards set forth in the statement referred to in subsection (a) of this section. Promptly after the completion of the survey, the Director shall determine on the basis of findings and conclusions resulting from the survey whether the accounting systems and internal controls meet those standards and, if not, whether to suspend the grant or contract. In the event of suspension, the assisted agency shall be given not more than six months within which to establish the necesary systems and controls, and, in the event of failure to do so within such time period, the assistance shall be terminated by the Director.

(c) Annual audit.

At least once annually the Director shall make or cause to be made an audit of each grant or contract of assistance under this subchapter. Promptly after the completion of such audit, he shall determine on the basis of resulting findings and conclusions whether any of the costs of expenditures incurred shall be disallowed. In the event of disallowance, the Director may seek recovery of the sums involved by appropriate means, including court action or a commensurate increase in the required non-Federal share of the costs of any grant or contract with the same agency or organization which is then in effect or which is entered into within twelve months after the date of disallowance.

(d) Other requirements and actions by Director.

The Director shall establish such other requirements and take such actions as he may deem necessary and appropriate to carry out the provisions of this section and to insure fiscal responsibility and accountability, and the effective and efficient handling of funds in connection with programs assisted under this subchapter. These requirements and actions shall include (1) necessary action to assure that the rate of expenditure of any agency receiving financial assistance does not exceed the rate contemplated under its approved program; and (2) appropriate requirements to promote the continuity and coordination of all projects or components of programs receiving financial assistance under this subchapter, including provision for the periodic reprograming and supplementation of assistance previously provided. (Pub. L. 88-452, title II, § 243, as added Pub. L. 90-222, title I, § 104, Dec. 23, 1967, 81 Stat. 706.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

§ 2836. Special limitations.

The following special limitations shall apply, as indicated, to programs under this subchapter.

(1) Financial assistance under this subchapter may include funds to provide a reasonable allowance for attendance at meetings of any community action agency governing board, neighborhood council or committee, as appropriate to assure and encourage the maximum feasible participation of members of groups and residents of areas served in accordance with the purposes of this subchapter, and to provide reimbursement of actual expenses connected with those meetings; but those funds (or matching non-Federal funds) may not be used to pay allowances in the case of any individual who is a Federal, State, or local government employee, or an employee of a community action agency, or for payment of an allowance to any individual for attendance at more than two meetings a month.

(2) The Director shall issue necessary rules or regulations to assure that no employee engaged in carrying out community action program activities receiving financial assistance under this subchapter is compensated from funds so provided at a rate in excess of $15,000 per annum, and that any amount paid to such an employee at a rate in excess of $15,000 per annum shall not be considered in determining whether the non-Federal contributions requirements of section 2812(c) of this title have been complied with; the Director may, however, provide in those rules or regulations for exceptions covering cases (particularly in large metropolitan areas) where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restriction would greatly impair program effectiveness or otherwise be inconsistent with the purposes sought to be achieved.

(3) No officer or employee of the Office of Economic Opportunity shall serve as member of a board, council, or committee of any agency serving as grantee, contractor, or delegate agency in

connection with a program receiving financial assistance under this subchapter; but this shall not prohibit an officer or employee from serving on a board, council, or committee which does not have any authority or powers in connection with a program assisted under this subchapter.

(4) In granting financial assistance for projects or activities in the field of family planning, the Director shall assure that family planning services, including the dissemination of family planning information and medical assistance and supplies, are made available to all low-income individuals who meet the criteria for eligibility for assistance under this subchapter which have been established by the assisted agency and who desire such information, assistance, or supplies. The Director shall require, in connection with any such financial assistance, that—

(A) no individual will be provided with any information, medical supervision, or supplies which that individual indicates are inconsistent with his or her moral, philosophical, or religious beliefs; and

(B) no individual will be provided with any medical supervision or supplies unless he or she has voluntarily requested such medical supervision or supplies.

The use of family planning services assisted under this subchapter shall not be a prerequisite to the receipt of services from or participation in any other programs under this chapter.

(5) No financial assistance shall be extended under this subchapter to provide general aid to elementary or secondary education in any school or school system; but this shall not prohibit the provision of special, remedial, and other noncurricular educational assistance.

(6) In extending assistance under this subchapter the Director shall give special consideration to programs which make maximum use of existing schools, community centers, settlement houses, and other facilities during times they are not in use for their primary purpose.

(7) No financial assistance shall be extended under this subchapter in any case in which the Director determines that the costs of developing and administering all of the programs assisted under this subchapter carried on by or under the supervision of any community action agency exceed 15 per centum of the total costs, including non-Federal contributions to such costs, of such programs. The Director, after consultation with the Director of the Office of Management and Budget, shall establish by regulation, criteria for determining (i) the costs of developing and administering such programs, and (ii) the total costs of such programs. In any case in which the Director determines that the cost of administering such total costs but is, in his judgment, excessive, he shall forthwith require such community action agency to take such steps prescribed by him as will eliminate such excessive administrative cost, including the sharing by one or more such community action agencies of a common director and other administrative personnel. The Director may waive the limitation prescribed by this paragraph for specific periods of time not to exceed six months whenever he determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

(Pub. L. 88–452, title II, § 244, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 707, and amended 1970 Reorg. Plan, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat —.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 2837. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the five succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (Pub. L. 88–452, title II, § 245, as added Pub. L. 90–222, title I, § 104, Dec. 23, 1967, 81 Stat. 709, and amended Pub. L. 91–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827.)

PRIOR PROVISIONS

The subject matter of this section was formerly covered by section 2831 of this title.

AMENDMENT

1969—Pub. L. 91–177 substituted "five" for "three".

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SUBCHAPTER III.—SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702, 2702a, 2902, 2944, 2949 of this title.

PART A.—RURAL LOAN PROGRAM

§ 2841. Congressional statement of purpose.

It is the purpose of this part to meet some of the special needs of low-income rural families by establishing a program of loans to assist in raising and maintaining their income and living standards. (Pub. L. 88–452, title III, § 301, Aug. 20, 1964, 78 Stat. 524; Pub. L. 90–222, title I, § 105(b), Dec. 23, 1967, 81 Stat. 709.)

AMENDMENTS

1967—Pub. L. 90–222 substituted a statement of purpose for Part A covering the rural loan program for a statement of the purpose for subchapter III covering the entire area of special programs to combat poverty in rural areas.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2851. Loans to low income rural families; maximum amounts and maturity; qualification to obtain funds under other Federal programs.

(a) The Director is authorized to make loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time to any low income rural family where, in the judgement of the Director, such loans have a reasonable possibility of effecting a permanent increase in the income of such families, or, in the case of the elderly, will contribute to the improvement of their living or housing conditions by assisting or permitting them to—

(A) acquire or improve real estate or reduce encumbrances or erect improvements thereon,

(B) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment, or

(C) participate in cooperative associations; and/or to finance nonagricultural enterprises which will enable such families to supplement their income.

(b) Loans under this section shall be made only if the family is not qualified to obtain such funds by loan under other Federal programs. (Pub. L. 88–452, title III, § 302, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89–253, § 21, Oct. 9, 1965, 79 Stat. 976; Pub. L. 89–794, title III, § 301(a), Nov. 8, 1966, 80 Stat. 1464; Pub. L. 90–222, title I, § 105(c), Dec. 23, 1967, 81 Stat. 709; Pub. L. 91–177, title I, § 108, Dec. 30, 1969, 83 Stat. 830.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–177 substituted "such families, or" for "such families, and".

1967—Subsec. (a). Pub. L. 90–222 substituted "aggregate principal indebtedness" for "aggregate indebtedness" in the material preceding par. (A), and inserted ", and, in the case of the elderly, will contribute to the improvement of their living or housing conditions" preceding "by assisting or permitting them to".

1966—Subsec. (a). Pub. L. 89–794 substituted "resulting in an aggregate indebtedness of more than $3,500 at any one time" for "exceeding $2,500 in the aggregate."

1965—Pub. L. 89–253 made minor structural changes only.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2854 of this title.

§ 2852. Loans to local cooperative associations.

The Director is authorized to make loans to local cooperative associations furnishing essential processing, purchasing, or marketing services, supplies, or facilities predominantly to low-income rural families. (Pub. L. 88–452, title III, § 303, Aug. 20, 1964, 78 Stat. 524.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2853, 2854 of this title.

§ 2853. Limitations on assistance.

No financial or other assistance shall be provided under this part unless the Director determines that—

(a) the providing of such assistance will materially further the purposes of this part, and

(b) in the case of assistance provided pursuant to section 2852 of this title, the applicant is fulfilling or will fulfill a need for services, facilities, or activities which is not otherwise being met.

(Pub. L. 88–452, title III, § 304, Aug. 20, 1964, 78 Stat. 524.)

§ 2854. Loan terms and conditions.

Loans pursuant to sections 2851 and 2852 of this title shall have such terms and conditions as the Director shall determine, subject to the following limitations:

(a) there is reasonable assurance of repayment of the loan;

(b) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(c) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(d) the loan bears interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (2) such additional charge, if any, toward covering other costs of the program as the Director may determine to be consistent with its purposes;

(e) with respect to loans made pursuant to section 2852 of this title, the loan is repayable within not more than thirty years; and

(f) no financial or other assistance shall be provided under this part to or in connection with any corporation or cooperative organization for the production of agricultural commodities or for manufacturing purposes: *Provided,* That (1) packing, canning, cooking, freezing, or other processing used in preparing or marketing edible farm products, including dairy products, shall not be regarded as manufacturing merely by reason of the fact that it results in the creation of a new or diferent substance; and (2) a cooperative organization formed by and consisting of members of an Indian tribe (including any tribe with whom the special Federal relationship with Indians has been terminated) engaged in the production of agricultural commodities, or in manufacturing products, on an Indian reservation (or former reservation in the case of tribes with whom the special Federal relationship with Indians has been terminated) shall not be regarded as a cooperative organization within the purview of this clause.

(Pub. L. 88–452, title III, § 305, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89–253, § 22, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89–794, title III, § 301(b), Nov. 8, 1966, 80 Stat. 1464.)

AMENDMENTS

1966—Subsec. (f). Pub. L. 89–794 added provision that a cooperative organization formed by and consisting of an Indian tribe engaged in the production of agricultural commodities, or in manufacturing products, on an Indian reservation shall not be regarded as a cooperative organization.

1965—Subsec. (f). Pub. L. 89–253 added proviso that packing, canning, cooking, freezing, or other processing used in preparing or marketing edible farm products, including dairy products, not be regarded as manufacturing merely because such activity results in the creation of a new or different substance.

§ 2855. Revolving fund.

(a) Establishment; capital.

To carry out the lending and guaranty functions authorized under this part, there is authorized to be established a revolving fund. The capital of the fund shall consist of such amounts as may be advanced to it by the Director from funds appropriated pursuant to section 2871 of this title and shall remain available until expended.

(b) Interest payments.

The Director shall pay into miscellaneous receipts of the Treasury, at the close of each fiscal year, interest on the capital of the fund at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity during the last month of the preceding fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

(c) Excess capital; credit to appropriations.

Whenever any capital in the fund is determined by the Director to be in excess of current needs, such capital shall be credited to the appropriation from which advanced, where it shall be held for future advances.

(d) Receipts from lending and guaranty operations; availability of funds.

Receipts from any lending and guaranty operations under this chapter (except operations under subchapter IV of this chapter carried on by the Small Business Administration) shall be credited to the fund. The fund shall be available for the payment of all expenditures of the Director for loans, participations, and guaranties authorized under this part. (Pub. L. 88–452, title III, § 306, formerly title VI, § 606, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89–794, title IV, § 407, Nov. 8, 1966, 80 Stat. 1465; renumbered and amended Pub. L. 90–222, title I, § 105 (d), Dec. 23, 1967, 81 Stat. 709.)

CODIFICATION

Section 606 of Pub. L. 88–452 as originally enacted was classified to section 2946 of this title. The reunumbering of said section 606 of Pub. L. 88–452 as section 306 and its transfer from title VI of Pub. L. 88–452 to title III thereof by section 105(d) of Pub. L. 90–222 necessitated the redesignation of the section as section 2855 of this title.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–222 substituted reference to "this part" for reference to "subchapter III of this chapter".

Subsec. (d). Pub. L. 90–222 substituted reference to "this part" for reference to "subchapter III of this chapter".

1966—Subsec. (a). Pub. L. 89–794 eliminated reference to "subchapter IV of this chapter".

Subsec. (d). Pub. L. 89–794 eliminated reference to "subchapter IV of this chapter".

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART B.—ASSISTANCE FOR MIGRANT, AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2702, 2702a of this title; title 20 section 244.

§ 2861. Congressional statement of purpose.

The purpose of this part is to assist migrant and seasonal farmworkers and their families to improve their living conditions and develop skills necessary for a productive and self-sufficient life in an increasingly complex and technological society. (Pub. L. 88–452, title III, § 311, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89–253, § 23, Oct. 9, 1965, 79 Stat. 977; Pub. L. 90–222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 709.)

AMENDMENTS

1967—Pub. L. 90–222 substituted a statement of purpose setting out, as the purpose of this part, the assistance of migrant and seasonal farmworkers and their families to improve living conditions and develop skills for a productive and self-sufficient life for provisions authorizing the Director to start a loan program and grant program to meet the special needs of migratory workers and seasonal farmworkers and their families in the fields of housing, sanitation, education, and day care of children.

1965—Pub. L. 89–253 clarified the authority granted with respect to the types and scope of assistance authorized and the institutions through which the assistance may be granted by specifying loans, loan guarantees, and grants as allowable devices and by limiting to local agencies, private nonprofit institutions, and cooperatives the agencies available to receive assistance.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2862. Financial assistance.

(a) The Director may provide financial assistance to assist State and local agencies, private nonprofit institutions and cooperatives in developing and carrying out programs to fulfill the purpose of this part.

(b) Programs assisted under this part may include projects or activities—

(1) to meet the immediate needs of migrant and seasonal farmworkers and their families, such as day care for children, education, health services, improved housing and sanitation (including the provision and maintenance of emergency and temporary housing and sanitation facilities), legal advice and representation, and consumer training and counseling;

(2) to promote increased community acceptance of migrant and seasonal farmworkers and their families; and

(3) to equip unskilled migrant and seasonal farmworkers and members of their families as appropriate through education and training to meet the changing demands in agricultural employment brought about by technological advancement and to take advantage of opportunities available to improve their well-being and self-sufficiency by gaining regular or permanent employment or by participating in available Government training programs.

(Pub. L. 88–452, title III, § 312, as added Pub. L. 90–222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 709.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2944 of this title.

§ 2863. Limitation of assistance.

(a) Assistance shall not be extended under this part unless the Director determines that the applicant will maintain its prior level of effort in similar activities.

(b) The Director shall establish necessary procedures or requirements to assure that programs under this part are carried on in coordination with other programs or activities providing assistance to the persons and groups served. (Pub. L. 88–452, title III, § 313, as added Pub. L. 90–222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 710.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2864. Technical assistance, training, and evaluation.

(a) The Director may provide directly or through grants, contracts, or other arrangements, such technical assistance or training of personnel as may be required to implement effectively the purposes of this subchapter.

(b) The Director shall provide for necessary evaluation of projects under this subchapter and may, through grants or contracts, secure independent evaluation for this purpose. The results of such evaluation shall be published and shall be summarized in the report required by section 2948 of this title. (Pub. L. 88–452, title III, § 314, as added Pub. L. 90–222, title I, § 105(e), Dec. 23, 1967, 81 Stat. 710.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART C.—DURATION OF PROGRAM

§ 2871. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the five succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (Pub. L. 88–452, title III, § 321, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89–253, § 30(c), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title III, § 302, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 91–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827.)

AMENDMENTS

1969—Pub. L. 91–177 substituted "five" for "three".

1966—Pub. L. 89–794 extended through June 30, 1970, the Director's authority to carry out the programs of the subchapter and struck out provisions authorizing an appropriation of $35,000,000 for the fiscal year ending June 30, 1965, and $55,000,000 for the fiscal year ending June 30, 1966, and authorizing the use of not to exceed $15,000,000 of the funds appropriated under other subchapters of this chapter for the purposes of Part B of this subchapter for the fiscal year ending June 30, 1965.

1965—Pub. L. 89–253 extended for one year (through the fiscal year ending June 30, 1968) the period for carrying out the programs of the subchapter, authorized an appropriation of $55,000,000 for the fiscal year ending June 30, 1966, and added a provision for the appropriation of a sum for the fiscal year ending June 30, 1968, as the Congress may hereafter authorize by law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2855, 2946 of this title.

PART D.—INDEMNITY PAYMENTS TO DAIRY FARMERS

§ 2881. Indemnity payments.

CODIFICATION

Section, Pub. L. 88–452, title III, § 331, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89–16, title III, § 303, Apr. 30, 1965, 79 Stat. 108; Pub. L. 89–253, § 24, Oct. 29, 1965, 79 Stat. 977; Pub. L. 89–794, title III, § 301(c), Nov. 8, 1966, 80 Stat. 1465, established a program for the payment of indemnities to dairy farmers who had been directed since January 1, 1964, to remove their milk from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government at the time of such use. Rather than merely extending the authorized period for the program by amending the expiration date so as to authorize operations beyond June 30, 1967, Congress enacted Pub. L. 90–95, Sept. 28, 1967, 81 Stat. 231, embodying the substance of this section. Pub. L. 90–95 is classified to sections 450j to 450*l* of Title 7, Agriculture.

SUBCHAPTER IV.—EMPLOYMENT AND INVESTMENT INCENTIVES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2764, 2855, 2949 of this title; title 15 section 633.

§ 2901. Congressional statement of purpose.

It is the purpose of this subchapter to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals, or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources. (Pub. L. 88–452, title IV, § 401, Aug. 20, 1964, 78 Stat. 526; Pub. L. 90–222, title I, § 106(a), Dec. 23, 1967, 81 Stat. 710.)

AMENDMENTS

1967—Pub. L. 90–222 inserted provisions calling for special attention to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals and small business concerns owned by low income individuals.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2902. Loans, participations, and guarantees to small businesses.

(a) Deferred payments; limitations; private assistance.

The Administrator of the Small Business Administration is authorized to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern (as defined in section 632 of Title 15 and regulations issued thereunder), or to any qualified person seeking to establish such a concern, when he determines that such loans will assist in carrying out the purposes of this subchapter, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals: *Provided, however,* That no such loans

shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed $25,000. The Administrator of the Small Business Administration may defer payments on the principal of such loans for a grace period and use such other methods as he deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administrator of the Small Business Administration may, in his discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administrator of the Small Business Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency. The Administrator of the Small Business Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guaranties, participations in loans, and pooling arrangements authorized by this section.

(b) Repealed. Pub. L. 90–222, title I, § 106(c)(2), Dec. 23, 1967, 81 Stat. 710.

(c) Powers of Administrator.

To the extent necessary or appropriate to carry out the programs provided for in this subchapter the Administrator of the Small Business Administration shall have the same powers as are conferred upon the Director by section 2942 of this title. To insure an equitable distribution between urban and rural areas for loans between $3,500 and $25,000 made under this subchapter, the Administrator is authorized to use the agencies and agreements and delegations developed under subchapter III of this chapter as he shall determine necessary.

(d) Program evalaution; report.

The Administrator shall provide for the continuing evaluation of programs under this section, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 2948 of this title. (Pub. L. 88–452, title IV, § 402, Aug. 20, 1964, 78 Stat. 526; Pub. L. 89–794, title IV, §§ 401, 402, 405, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90–104, title 1, § 108, Oct. 11, 1967, 81 Stat. 269; Pub. L. 90–222, title I, § 106 (b), (c), Dec. 23, 1967, 81 Stat. 710.)

CODIFICATION

The subsection added by Pub. L. 90–222 was designated as subsec. (d) rather than subsec. (c) as set out in said Pub. L. 90–222 because of the earlier designation of the subsection added by section 405 of Pub. L. 89–794 as subsec. (c).

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–222, § 106 (b), (c)(1), substituted the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals for employment of long-term unemployed as the particular aim to be emphasized in granting loans to assist in carrying out the purposes of this chapter, added proviso that an approved management training program be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency, and directed the Administrator to seek to stimulate new private lending activities to concerns involved through the use of loan guarantees, participations in loans, and pooling arrangements.

Subsec. (b). Pub. L. 90–222, § 106(c)(2), struck out subsec. (b) which authorized the Director to make grants and contracts to provide screening, counseling, management guidance, and similar assistance with respect to persons or small business concerns eligible for assistance. Section 106(c)(2) of Pub. L. 90–222 refers to the stricken provision as the "first subsection (b)" of section 402 of Pub. L. 88–452 in view of the existence of two subsecs. (b) of such section prior to the amendment by Pub. L. 90–104 and the designation of the first of such subsecs. (b) as subsec. (b) of this section for codification purposes.

Subsec. (c). Pub. L. 90–222, § 106(c)(3), authorized the Administrator to use agencies and agreements and delegations developed under subchapter III of this chapter to insure an equitable distribution between urban ond rural loans between $3,500 and $25,000 made under this subchapter. Section 106(c)(3) of Pub. L. 90–222 refers to the amendment herein as being made to the "second subsection (b)" of Pub. L. 88–452 in view of the existence of two subsecs. (b) prior to the amendment by Pub. L. 90–104 and the designation of the second of such subsecs. (b) as subsec. (c) of this section for codification purposes.

Pub. L. 90–104 redesignated subsec. (b) of section 402 of Pub. L. 88–452 as added by section 405 of Pub. L. 89–794 as subsec. (c). Said subsec. (b) had already been designated as subsec. (c) of this section in classification of Pub. L. 89–794 to the Code since a prior subsec. (b) of this section had already been added by section 402(a) of Pub. L. 89–794. Thus, no change in text designation of subsec. (c) of this section was necessitated by reason of the Pub. L. 90–104 amendment.

Subsec. (d). Subsec. (d). Pub. L. 90–222, § 106(c)(4), added subsec. (d).

1966—Subsec. (a). Pub. L. 89–794, §§ 401, 402, redesignated existing provisions as subsec. (a) and, in subsec. (a) as so redesignated, substituted "Administrator of the Small Business Administration" for "Director" wherever appearing.

Subsec. (b). Pub. L. 89–794, 402, added subsec. (b).

Subsec. (c). Pub. L. 89–794, § 405, added subsec. (b) to section 402 of Pub. L. 88–452, which, because of the prior addition of subsec. (b) by section 402 of Pub. L. 89–794, was designated subsec. (c) of this section for purposes of codification.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2905, 2906b of this title; title 38 section 1652.

§§ 2903, 2904. Repealed. Pub. L. 89–794, title IV, § 403, Nov. 8, 1966, 80 Stat. 1465.

Section 2903, Pub. L. 88–452, title IV, § 403, Aug. 20, 1964, 78 Stat. 526, required that financial assistance under section 2902 of this title be coordinated with any community action program covering the same community.

Section 2904, Pub. L. 88–452, title IV, § 404, Aug. 20 1964, 78 Stat. 526, provided that the lending and guaranty functions which are delegated to the Small Business Administration may be financed with funds under the revolving fund established by section 633(c) of Title 15 for the purposes of sections 636(a), 636(b), and 637(a) of Title 15.

§ 2905. Loan terms and conditions.

Loans made pursuant to section 2902 of this title (including immediate participation in and guaranties of such loans) shall have such terms and condi-

tions as the Administrator of the Small Business Administration shall determine, subject to the following limitations—

(a) there is reasonable assurance of repayment of the loan;

(b) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

(c) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

(d) the loan bears interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (2) such additional charge, if any, toward covering other costs of the program as the Administrator of the Small Business Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Area Redevelopment Act shall not exceed the rate currently applicable to new loans made under section 2505 of this title; and

(e) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guaranties.

(Pub. L. 88–452, title IV, § 403, formerly § 405, Aug. 20, 1964, 78 Stat. 526, renumbered and amended Pub. L. 89–794, title IV, §§ 401, 406, Nov. 8, 1966, 80 Stat. 1465.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in the text, was Pub. L. 87–27, May 1, 1961, 75 Stat. 47, formerly classified to section 2501 et seq. of this title, and terminated August 31, 1965 along with all authority conferred thereunder.

AMENDMENTS

1966—Pub. L. 89–794, § 401, substituted "Administrator of the Small Business Administration" for "Director" wherever appearing.

§ 2906. Distribution of financial assistance.

The Administrator of the Small Business Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this part are allotted to small business concerns located in urban areas identified by the Director, after consideration of any recommendations of the Administrator of the Small Business Administration, as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administrator of the Small Business Administration, after consideration of any recommendations of the Director, shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this part, and such definition need not correspond to the definition of low income as used elsewhere in this chapter. (Pub. L. 88–452, title IV, § 404, formerly § 406, Aug. 20, 1964, 78 Stat. 527, renumbered and amended Pub. L. 89–794, title IV, §§ 401, 406, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90–222, title I, § 106(d)(2), (3), Dec. 23, 1967, 81 Stat. 711.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions directing the Administrator of the Small Business Administration to allot at least 50 per centum of loans and guarantees made pursuant to this part to small business concern located in urban areas having a high concentration of unemployed or low-income individuals or owned by low-income individuals for provisions prohibiting the extending of financial assistance where the Administrator of the Small Business Administration determined that the assistance would be used in relocating establishments from one area to another or in financing subcontractors to enable them to undertake work theretofore performed in another area by other subcontractors or contractors. See section 2906a of this title.

1966—Pub. L. 89–794, § 401, substituted "Administrator of the Small Business Administration" for "Director" wherever appearing.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2906a. Limitation on financial assistance.

No financial assistance shall be extended pursuant to this subchapter where the Administrator of the Small Business Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location. (Pub. L. 88–452, title IV, § 405, as added Pub. L. 90–222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 711.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2906b. Technical assistance and management training.

(a) Financial assistance to eligibile individuals and enterprises.

The Administrator of the Small Business Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the costs of projects designed to provide technical and management assistance to individuals or enterprises eligible for assistance under section 2902 of this title, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

(b) Projects.

Financial assistance under this section may be provided for projects, including without limitation—

(1) planning and research, including feasibility studies and market research;

(2) the identification and development of new business opportunities;

(3) the furnishing of centralized services with regard to public services and government programs, including programs authorized under section 2902 of this title;

(4) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

(5) the encouragement of the placement of subcontracts by major businesses with small business

concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

(6) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(c) Preference projects.

The Administrator of the Small Business Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

(d) Easy access to services.

To the extent feasible, services under this section shall be provided in a location which is easily accessible to the individuals and small business concerns served.

(e) Coordination; avoidance of duplication of effort.

The Administrator of the Small Business Administration shall, in carrying out programs under this section, consult with and take into consideration the views of the Secretary of Commerce, with a view to coordinating activities and avoiding duplication of effort.

(f) Transfer of functions to Secretary of Commerce.

The President may, if he determines that it is necessary to carry out the purposes of this part, transfer any of the functions under this section to the Secretary of Commerce.

(g) Evaluation of program; report.

The Administrator of the Small Business Administration shall provide for an independent and continuing evaluation of programs under this section, including full information on and analysis of the character and impact of managerial assistance provided, the location, income characteristics and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations as he deems advisable shall be included in the report required by section 2948 of this title. (Pub. L. 88–452, title IV, § 406, as added Pub. L. 90–222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 711.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2702 of this title.

§ 2906c. Government contracts.

(a) The Administrator of the Small Business Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this subchapter.

(b) The Administrator of the Small Business Administration shall provide for the continuing evaluation of programs under this section and the results of such evaluation together with recommendations shall be included in the report required by section 2948 of this title. (Pub. L. 88–452, title IV, § 407, as added Pub. L. 90–222, title I, § 106(d)(3), Dec. 23, 1967, 81 Stat. 712.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2907. Duration of program.

The Administrator of the Small Business Administration and the Secretary of Commerce shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the five succeeding fiscal years. (Pub. L. 88–452, title IV, § 408, formerly § 407, Aug. 20, 1964, 78 Stat. 527, renumbered § 405 and amended Pub. L. 89–794, title IV, §§ 404, 406, Nov. 8, 1966, 80 Stat. 1465; renumbered § 408 and amended Pub. L. 90–222, title I, § 106(d)(1), Dec. 23, 1967, 81 Stat. 711; Pub. L. 91–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827.)

AMENDMENTS

1969—Pub. L. 91–177 substituted "five" for "three".

1967—Pub. L. 90–222 inserted reference to the Secretary of Commerce.

1966—Pub. L. 89–794, § 404, substituted "Administrator of the Small Business Administration" for "Director" and extended the period for carrying out the programs provided for in this subchapter from June 30, 1967, to June 30, 1970.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SUBCHAPTER V.—WORK EXPERIENCE, TRAINING, AND DAY CARE PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2949 of this title.

PART A.—WORK EXPERIENCE AND TRAINING PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2702 of this title.

§ 2921. Congressional statement of purpose.

It is the purpose of this part to expand the opportunities for constructive work experience and other needed training available to persons (including workers in farm families with less than $1,200 net family income, unemployed heads of families and other needy persons) who are unable to

support themselves or their families. (Pub. L. 88–452, title V, § 501, Aug. 20, 1964, 78 Stat. 527; Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714.)

AMENDMENTS

1967—Pub. L. 90–222 substituted "this part" for "this subchapter".

1966—Pub. L. 89–794 added reference to workers in farm families with less than $1,200 net family income, unemployed heads of families, and other needy persons, and struck out requirement that the Director, in carrying out this purpose, make maximum use of the programs available under the Manpower Development and Training Act of 1962, as amended, and Vocational Education Act of 1963.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2922. Transfer of funds to the Secretary of Health, Education, and Welfare.

In order to permit the carrying out of work experience and training programs meeting the criteria set forth in part E of title II of the Manpower Development and Training Act of 1962, the Director is authorized to transfer funds to the Secretary of Health, Education, and Welfare to enable him (1) to make payments under section 1115 of the Social Security Act for experimental, pilot, or demonstration projects which provide pretraining services and basic maintenance, health, family, basic education, day care, counseling, and similar supportive services required for such programs, and (2) to reimburse the Secretary of Labor for carrying out the activities described in such part E of title II of the Manpower Development and Training Act of 1962. Costs of such projects and activities shall, notwithstanding the provisions of the Social Security Act and the Manpower Development and Training Act of 1962, be met entirely from funds appropriated to carry out this part: *Provided,* That such funds may not be used to assist families and individuals insofar as they are otherwise receiving or eligible to receive assistance or social services through a State plan approved under titles I, IV, X, XIV, XVI, or XIX of the Social Security Act. (Pub. L. 88–452, title V, § 502, Aug. 20, 1964, 78 Stat. 527; Pub. L. 89–253, § 25, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714.)

REFERENCES IN TEXT

The Manpower Development and Training Act of 1962, referred to in text, is classified to section 2571 et seq. of this title, and Part E of title II of the Act is classified to section 2610c of this title.

The Social Security Act, referred to in text, is classified to chapter 7 of this title, section 1115 thereof is classified to section 1315 of this title, and titles I, IV, X, XIV, XVI, and XIX thereof are classified respectively to subchapters I, IV, X, XIV, XVI, and XIX respectively of chapter 7 of this title.

AMENDMENTS

1967—Pub. L. 90–222 substituted "this part" for "this subchapter".

1966—Pub. L. 89–794 substituted reference to work experience and training programs meeting the criteria set forth in part E of title II of the Manpower Development and Training Act of 1962 for reference to programs designed to help unemployed fathers and other needy persons to secure and retain employment or to attain or retain capability for self-support or personal independence, specified pretaining services and basic maintenance, health, family, basic education, day care, counseling, and similar supportive services as the aim of the authorized experimental, pilot, or demonstration projects under section 1115 of the Social Security Act, struck out provisions making applicable the limitations of section 409(a)(1) to (6) of the Social Security Act, added provision for reimbursement of the Secretary of Labor, and substituted provisions that funds may not be used to assist families and individuals insofar as they are otherwise receiving assistance under titles I, VI, X, XIV, XVI, or XIX of the Social Security Act for provisions placing workers in farm families with less than $1,200 net family income in the category of unemployed for the purposes of this subchapter.

1965—Pub. L. 89–253 added provision making farm families with less than $1,200 net family income eligible for consideration as "unemployed" for purposes of this subchapter and struck out provision limiting to the period ending with the finish of the fiscal year ending June 30, 1965, the funding of work experience programs entirely from funds appropriated or allocated to carry out the purposes of this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2610c, 2740, 2923 of this title.

§ 2923. Limitations on work experience and training programs.

(a) Applicability of limitation of Social Security Act.

The provisions of paragraphs (1) to (6), inclusive, of section 409 of the Social Security Act, unless otherwise inconsistent with the provisions of this part, shall be applicable with respect to work experience and training programs assisted with funds under this part. The costs of such programs to the United States shall, notwithstanding the provisions of such Act, be met entirely from funds appropriated or allocated to carry out the purpose of this part.

(b) Maximum length of individual participation.

Work experience and training programs shall be so designed that participation of individuals in such programs will not ordinarily exceed 36 months, except that nothing in this subsection shall prevent the provision of necessary and appropriate follow-up services for a reasonable period after an individual has completed work experience and training.

(c) Maximum allocation to any one State; maximum transferred funds.

Not more than 12½ percent of the sums appropriated or allocated for any fiscal year to carry out the purposes of this part shall be used within any one state. In the case of any work experience and training program approved on or after July 1, 1968, not more than 80 percent of the costs of projects or activities referred to in section 2922 of this title may be paid from funds appropriated or allocated to carry out this part, unless the Secretary of Health, Education, and Welfare determines, pursuant to regulations prescribed by him establishing objective criteria for such determinations, that assistance in excess of such percentage is required in furtherance of the purposes of this part. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. (Pub. L. 88–452, title V, § 503, Aug. 20, 1964, 78 Stat. 523; Pub. L. 89–253, § 30(d), Oct. 9, 1965, 79 Stat. 979;

Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714.)

REFERENCES IN TEXT

The provisions of paragraphs (1) to (6) of section 409 of the Social Security Act, referred to in text, are classified to section 609(a)(1)—(6) of this title.

The Social Security Act, referred to in text, is classified to chapter 7 of this title.

AMENDMENTS

1967—Pub. L. 90–222 substituted "this part" for "this subchapter" wherever appearing.

1966—Pub. L. 89–794 substituted provisions making requirements of sections 409(a)(1) to (6) of the Social Security Act applicable to work experience and training programs, imposing a 36-month limit on individual participation, placing a 12½ percent limitation on funds spent in any one state, and requiring that, in programs approved after July 1, 1968, not more than 80 percent of the costs of projects or activities referred to in section 2922 of this title be paid from funds appropriated or allocated to carry out this subchapter for provisions authorizing the continuation of the programs under this subchapter through June 30, 1968, and authorizing appropriations of $150,000,000 for the fiscal year ending June 30, 1965, and $150,000,000 for the fiscal year ending June 30, 1966. See section 2924 of this title.

1965—Pub. L. 89–253 extended for one year (through the fiscal year ending June 30, 1968) the period for carrying out the programs of the subchapter, authorized an appropriation of $150,000,000 for the fiscal year ending June 30, 1966, and added a provision for the appropriation of a sum for the fiscal year ending June 30, 1968, as the Congress may hereafter authorize by law.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2924. Duration of programs.

The Director shall carry out the programs provided for in this part during the fiscal year ending June 30, 1967, and the three succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (Pub. L. 88–452, title V, § 504, as added Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1467, and amended Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714.)

AMENDMENTS

1967—Pub. L. 90–222 substituted "this part" for "this subchapter" wherever appearing.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2925. Transition of training programs for needy persons requiring special family and supportive services.

The Secretary of Labor is authorized to provide work experience and training programs authorized by section 261(a) (3) and (4) of part E of title II of the Manpower Development and Training Act of 1962, commencing July 1, 1967. The Secretary of Health, Education, and Welfare is authorized to provide such work experience and training programs through June 30, 1967, and may also continue to completion those work experience and training programs commenced prior to that date, but in no event shall such programs be extended beyond June 30, 1968. After June 30, 1967, the Secretary of Health, Education, and Welfare, pursuant to agreement with the Secretary of Labor which shall include provisions for joint evaluation and approval of the training and work experience aspect of each project or program, may also—

(1) with the concurrence of the Secretary of Labor, renew existing projects and programs, or develop and provide new projects or programs, to accomplish the purposes of this part and of part E of title II of the Manpower Development and Training Act of 1962; and

(2) with the concurrence of the Secretary of Labor, develop and provide other work experience and training programs pursuant to such part E, with respect to such projects or parts of projects which the Secretary of Labor is unable to provide after being given notice and a reasonable opportunity to do so.

Before July 1, 1967, the Secretary of Health, Education, and Welfare may, for the purposes of this part and part E of title II of the Manpower Development and Training Act of 1962, utilize the services and facilities available under the manpower development and utilization programs administered by the Department of Labor which may include, but not be limited to, testing, counseling, job referral and follow-up services required to assist participants in securing and obtaining employment, training opportunities, either on or off the job, available under the Manpower Development and Training Act of 1962, and relocation assistance to involuntarily unemployed individuals in accordance with the standards prescribed in section 104 of the Manpower Development and Training Act of 1962, and shall compensate the Secretary of Labor for the reasonable costs thereof either by advance or reimbursement. (Pub. L. 88–452, title V, § 505, as added Pub. L. 89–794, title V, § 501(a), Nov. 8, 1966, 80 Stat. 1467, and amended Pub. L. 90–222, title I, § 107(d), Dec. 23, 1967, 81 Stat. 714.)

REFERENCES IN TEXT

Section 261(a) (3) and (4) of part E of title II of the Manpower Development and Training Act of 1962, referred to in text, is classified to section 2610c(a) (3) and (4) of this title.

Part E of title II of the Manpower Development and Training Act of 1962 is classified to section 2610c of this title.

The Manpower Development and Training Act of 1962 is classified to section 2571 et seq. of this title.

Section 104 of the Manpower Development and Training Act of 1962 is classified to section 2572b of this title.

AMENDMENTS

1967—Pub. L. 90–222 substituted "this part" for "this subchapter" wherever appearing.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART B.—DAY CARE PROJECTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2702, 2702a of this title.

§ 2931. Congressional statement of purpose.

The purpose of this part is to provide day care for children from families which need such assistance to become or remain self-sufficient or otherwise to ob-

tain objectives related to the purposes of this chapter, with particular emphasis upon enabling the parents or relatives of such children to choose to undertake or to continue basic education, vocational training, or gainful employment. (Pub. L. 88–452, title V, § 521, as added Pub. L. 90–222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 713.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2932. Financial assistance for day care projects.

(a) Eligible agencies and organizations; contributions.

The Director is authorized to provide financial assistance to appropriate public agencies and private organizations to pay not to exceed 90 per centum of the cost of planning, conducting, administering, and evaluating projects under which children from low-income families or from urban and rural areas with large concentrations or proportions of low-income persons may receive day care. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment and services. Such day care projects shall provide health, education, social, and such other supportive services as may be needed. Financial assistance under this section may be provided to employers, labor unions, or to joint employer-union organizations, for day care projects established at or in association with a place of employment or training where such projects are financed in major part through private funds. Project costs payable under this part may include costs of renovation and alteration of physical facilities. Financial assistance under this section may be provided in conjunction with or to supplement day care projects under the Social Security Act or other relevant statutes.

(b) Payment for day care services.

The Director may require a family which is not a low-income family to make payment, in whole or in part, for the day care services provided under this program where the family's financial condition is, or becomes through employment or otherwise, such as to make such payment appropriate.

(c) Technical assistance and training.

The Director may provide, directly or through contracts or other arrangements, technical assistance and training necessary for the initiation or effective operation of programs under this part.

(d) Program coordination.

The Director and the Secretary of Health, Education, and Welfare shall take all necessary steps to coordinate programs under their jurisdictions which provide day care, with a view to establishing, insofar as possible, a common set of program standards and regulations, and mechanisms for coordination at the State and local levels. In approving applications for assistance under this part, the Director shall take into consideration (1) the extent to which applicants show evidence of coordination and cooperation between their projects and other day care programs in the areas which they will serve, and (2) the extent to which unemployed or low-income individuals are to be employed, including individuals receiving or eligible to receive assistance under the Social Security Act.

(e) Evaluation of program; report.

Each project to which payments are made hereunder shall provide for a thorough evaluation. This evaluation shall be conducted by such agency or independent public or private organization as the Director shall designate, with a view to determining, among other things, the extent to which the day care provided may have increased the employment of parents and relatives of the children served, the extent to which such day care may have reduced the costs of aid and services to such children, the extent to which such children have received health and educational benefits, and the extent to which the project has been coordinated with other day care activities in the area served. Up to 100 per centum of the costs of evaluation may be paid by the Director from funds appropriated for the purposes of carrying out this part, except that where such evaluation is carried on by the assisted agency itself, he may pay only 90 per centum of such costs. Such evaluations, together with a report on the program described in this part, shall be included in the report required by section 2948 of the title. (Pub. L. 88–452, title V, § 522, as added Pub. L. 90–222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 713.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified to chapter 7 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2933. Duration of program.

The Director shall carry out the programs provided for in this part during the fiscal year ending June 30, 1968, and the four succeeding fiscal years. (Pub. L. 88–452, title V, § 523, as added Pub. L. 90–222, title I, § 107(a), Dec. 23, 1967, 81 Stat. 714, and amended Pub. L. 91–177, title I, § 101(c), Dec. 30, 1969, 83 Stat. 827.)

AMENDMENTS

1969—Pub. L. 91–177 substituted "four" for "two".

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SUBCHAPTER VI.—ADMINISTRATION AND COORDINATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702, 2702a of this title.

PART A.—ADMINISTRATION

§ 2941. Office of Economic Opportunity.

(a) Establishment; appointment of Director, Deputy Director and Assistant Directors; functions of Deputy Director and Assistant Directors.

There is hereby established in the Executive Office of the President the Office of Economic Opportunity. The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. There shall also

be in the Office one Deputy Director and five Assistant Directors who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director and the Assistant Directors shall perform such functions as the Director may from time to time prescribe.

(b) Transfer authority.

Notwithstanding the provisions of section 5(b) of the Reorganization Act of 1949, at any time after one year from August 20, 1964 the President may, by complying with the procedures established by that Act, provide for the transfer of the Office from the Executive Office of the President and for its establishment elsewhere in the executive branch as he deems appropriate.

(c) Compensation of Director.

The compensation of the Director of the Office of Economic Opportunity shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Director of the Office of Management and Budget.

(d) Compensation of Deputy Director.

The compensation of the Deputy Director of the Office of Economic Opportunity shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(e) Compensation of Assistant Directors.

The compensation of the Assistant Directors of the Office of Economic Opportunity shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Assistant Secretaries of the Executive Departments. (Pub. L. 88–452, title VI, § 601, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89–794, title VI, § 601(a), Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90–222, title I, § 108(a), Dec. 23, 1967, 81 Stat. 714; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

Section 5(b) of the Reorganization Act of 1949, referred to in subsec. (b), was repealed in the general revision of Title 5 and the provisions are now covered by section 905 of Title 5, Government Organization and Employees.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–222 raised from four to five the number of Assistant Directors in the Office of Economic Opportunity.

1966—Subsec. (a). Pub. L. 89–794 substituted "four" for "three."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 2942. Authority of Director.

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized, in carrying out his functions under this chapter, to—

(a) Appointment of personnel.

appoint in accordance with the civil service laws such personnel as may be necessary to enable the Office to carry out its functions, and, except as otherwise provided herein, fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of Title 5;

(b) Employment of experts and consultants.

(1) employ experts and consultants or organizations thereof as authorized by section 55a of Title 5, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (2) compensate individuals so employed at rates not in excess of $100 per diem, including travel time; and (3) allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 73b–2 of Title 5 for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually;

(c) Appointment of advisory committees.

appoint, without regard to the civil service laws, one or more advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this chapter; and members of such committees (including the National Advisory Council established in section 2945 of this title), other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Director, shall be entitled to receive compensation and travel expenses as provided in subsection (b) of this section with respect to experts and consultants;

(d) Reimbursement of other Federal agencies for performance of functions; delegation of powers.

with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this chapter and, as necessary or appropriate, delegate any of his powers under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the furnishing of such information by such Office to such other agencies;

(e) Utilization of services and facilities of Federal and State agencies.

utilize, with their consent, the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political

subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(f) Acceptance of gifts, devises and bequests.

accept in the name of the Office, and employ or dispose of in furtherance of the purposes of this chapter, or of any subchapter thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(g) Acceptance of voluntary and uncompensated services.

accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of Title 31;

(h) Allocation and expenditure of funds; transfer of funds to other Federal agencies.

allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this chapter as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of Title 10) expenditure for construction, repairs, and capital improvements;

(i) Dissemination of data and information.

disseminate, without regard to the provisions of section 3204 of Title 39, data and information, in such form as he shall deem appropriate, to public agencies, private organizations, and the general public;

(j) Seal.

adopt an official seal, which shall be judicially noticed;

(k) Acquisition, handling, or disposal of property acquired in connection with loans, participations, and guaranties.

notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real or personal property by the United States, deal with, complete, rent, renovate, modernize, or sell for cash or credit at his discretion any properties acquired by him in connection with loans, participations, and guaranties made by him pursuant to subchapters III and IV of this chapter;

(*l*) Collection or compromise of obligations.

collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection;

(m) Expenditures for printing and binding, rent, and repair, alteration, and improvement of buildings.

expend funds made available for purposes of this chapter—

(1) for printing and binding, in accordance with applicable law and regulation; and

(2) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subparagraph (2)—

(A) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this chapter, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(B) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority; and

(n) Other necessary or appropriate functions.

establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments), and generally perform such functions and take such steps as he may deem to be necessary or appropriate to carry out the provisions of this chapter.

(Pub. L. 88–452, title VI, § 602, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89–794, title VI, §§ 602, 603, Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90–222, title I, § 108(b), Dec. 23, 1967, 81 Stat. 714; Pub. L. 91–375, § 6(n) Aug. 12, 1970, 84 Stat. 783.)

REFERENCES IN TEXT

Sections 73b–2 and 55a of Title 5, referred to in subsec. (b), were, in the original, sections 5 and 15 of the Administrative Expenses Act of 1946, which was act Aug. 2, 1946, ch. 744, 60 Stat. 806. Sections 5 of that Act, formerly set out as section 73b–2 of Title 5 is now covered by sections 5703(b)—(d) and 5707 of Title 5, Government Organization and Employees, and section 15 of that Act, formerly set out as section 55a of Title 5 is now covered by section 3109(b) of Title 5.

AMENDMENTS

1970—Subsec. (i). Pub. L. 91–375 substituted "section 3204 of Title 39" for "section 4154 of Title 39".

1967—Subsec. (b). Pub. L. 90–222 added provision that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year and made minor changes in structure.

1966—Subsec. (d). Pub. L. 89–794, § 602, inserted "subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the furnishing of such information by such Office to such other agencies."

Subsec. (m). Pub. L. 89–794, § 603, substituted provision making the Director's exercise of authority to expend funds for printing and binding expressly subject to applicable law and regulation for provision which excepted the Director's authority to expend funds for printing and binding from the effect of any other law or regulation and struck out provision for the giving of notice to the Chairman of the Joint Committee on Printing when the Director proposes to exercise authority under the jurisdiction of the Committee.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2902, 2951 of this title.

§ 2943. Political activities of personnel of overall community action agencies; rules and regulations.

(a) For purposes of chapter 15 of Title 5 any overall community action agency which assumes responsibility for planning, developing, and coordinating communitywide antipoverty programs and receives assistance under this chapter shall be deemed to be a State or local agency; and for purposes of clauses (1) and (2) of section 1502(a) of such title any agency receiving assistance under this chapter (other than part C of subchapter I) shall be deemed to be a State or local agency.

(b) Programs assisted under this chapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis. (Pub. L. 88–452, title VI, § 603, Aug. 20, 1964, 78 Stat. 530; Pub. L. 89–253, § 26, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 89–794, title VI, § 604, Nov. 8, 1966, 80 Stat. 1469; Pub. L. 90–222, title I, § 108(c), Dec. 23, 1967, 81 Stat. 714.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–222 made structural changes and added references to nonpartisan political activity, programs to transport voters to the polls, and voter registration programs.

1966—Pub. L. 89–794 altered the section structurally by eliminating subsecs. (c) and (d) and amended the section generally by substituting provisions regulating the political activities of overall community action agencies and providing for the promulgation of rules and regulations to assure the removal of program activities from partisan political activity of any kind for provisions covering the recruitment, selection, training, and assignment of volunteers to serve in programs combating poverty at the State or local level, the terms and conditions of referral or assignment, pay and allowances, oaths and affirmations, and the applicability of Federal employment laws. See section 2991 et seq. of this title.

Subsec. (d). Pub. L. 89–554 repealed all words after the sixth comma insofar as applicable to section 2716(c) of this title.

1965—Subsec. (a). Pub. L. 89–253, § 26(a), expanded the scope of allowable programs or activities authorized by clause (C) from those authorized under subchapters I and II of this chapter to those authorized or supported or of a character eligible for assistance under this entire chapter.

Subsec. (d). Pub. L. 89–253, § 26(b), provided for the taking of the prescribed oath and the applicability of section 1001 of Title 18 and provided that, except for the purposes of the computation described in par. (2)(B) of section 2716(c) of this title, the monthly pay of a volunteer shall be deemed to be that received under the entrance salary for GS–7 under the Classification Act of 1949.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 8143.

§ 2944. Appeals, notice, and hearing.

The Director shall prescribe procedures to assure that—

(1) special notice of and an opportunity for a timely and expeditious appeal to the Director is provided for an agency or organization which would like to serve as a delegate agency under part B of subchapter I of this chapter or subchapter II of this chapter and whose application to the prime sponsor or community action agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Director;

(2) financial assistance under part B of subchapter I of this chapter, subchapter II of this chapter, and part B of subchapter III of this chapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for refunding under sections 2740, 2808, 2809, or 2862 of this title be denied, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(3) financial assistance under part B of subchapter I of this chapter, subchapter II of this chapter, and part B of subchapter III of this chapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub. L. 88–452, title VI, § 604, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89–794, title IX, § 901(d), Nov. 8, 1966, 80 Stat. 1475; Pub. L. 90–222, title I, § 108(d), Dec. 23, 1967, 81 Stat. 715.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions covering appeals, notice, and hearing for provisions establishing the Economic Opportunity Council and setting out its structure, personnel, and functions.

1966—Subsec. (b). Pub. L. 89–794 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2945. National Advisory Council on Economic Opportunity.

(a) Establishment; appointment of members; chairman.

There is hereby established in the Office a National Advisory Council on Economic Opportunity (hereinafter referred to as the Advisory Council), to be composed of twenty-one members appointed, for staggered terms and without regard to the civil service laws, by the President. Such members shall be representative of the public in general and appropriate fields of endeavor related to the purposes of this chapter. The President shall designate the chairman from among such members. The Advisory Council shall meet at the call of the chairman but not less often than four times a year. The Director shall be an ex officio member of the Advisory Council.

(b) Functions of Council.

The Advisory Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this chapter; and

(2) review the effectiveness and the operation of programs under this chapter and make recommendations concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist low income individuals and families.

Such recommendations shall include such proposals for changes in this chapter as the Advisory Council deems appropriate.

(c) Annual report.

The Advisory Council shall make an annual report of its findings and recommendations to the President not later than March 31 of each calendar year beginning with the calendar year 1967. The President shall transmit each such report to the Congress together with his comments and recommendations. (Pub. L. 88–452, title VI, § 605, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89–253, § 27, Oct. 9, 1965, 79 Stat. 978; Pub. L. 89–794, title VI, § 605, Nov. 8, 1966, 80 Stat. 1469.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

AMENDMENTS

1966—Pub. L. 89–794 substituted National Advisory Council on Economic Opportunity for National Advisory Council as the name of the group created, added provision for the staggering of the terms of the members, substituted provision for the designation of a chairman from among the members for provision that the Director be chairman, added provision that the Director be an ex-officio member, raised from one to four the number of required meetings per year, substituted the chairman for the Director as the convening authority, added provisions that the Council advise the Director with respect to policy matters arising in the administration of this chapter, spelled out the areas in which the Council shall make recommendations, and added provision for an annual report to the President and transmittal thereof to the Congress.

1965—Pub. L. 89–253 increased from fourteen to twenty the number of members authorized in addition to the Director.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2725 of this title.

§ 2946. Announcement of research and demonstration contracts.

(a) The Director or the head of any other Federal agency administering a program under this chapter shall make a public announcement concerning:

(1) The title, purpose, intended completion date, identity of the contractor, and proposed cost of any contract with a private or non-Federal public agency or organization for any demonstration or research project; and

(2) The results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) of this section shall be made within thirty days of entering into such contracts and thereafter within thirty days of the receipt of such results.

(c) It shall be the duty of the Comptroller General to assure that the requirements of this section are met, and he shall at once report to the Congress concerning any failure to comply with these requirements. (Pub. L. 88–452, title VI, § 606, as added Pub. L. 90–222, title I, § 108(e), Dec. 23, 1967, 81 Stat. 715.)

PRIOR PROVISIONS

A prior section 606 of Pub. L. 88–452, classified to this section, was redesignated as section 306 of Pub. L. 88–452 by section 105(d) of Pub. L. 90–222 and is set out as section 2855 of this title.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2947. Labor standards.

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 88–452, title VI, § 607, Aug. 20, 1964, 78 Stat. 532.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in the text, is classified to sections 276a—276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in the text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2948. Annual reports.

Not later than one hundred and twenty days after the close of each fiscal year, the Director shall prepare and submit to the President for transmittal to the Congress a full and compete report on the activities of the Office during such year. (Pub. L. 88–452, title VI, § 608, Aug. 20, 1964, 78 Stat. 532.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2724, 2749, 2767, 2787, 2793, 2825, 2826, 2864, 2902, 2906b, 2906c, 2932, 2950 of this title.

§ 2949. Definitions.

As used in this chapter—

(1) the term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, or the Virgin Islands, and for purposes of subchapters I, II, part A of subchapter III, and subchapter IV of this chapter the meaning of "State" shall also include the Trust Territory of the Pacific Islands; except that when used in section 2812 of this title this term means only a State or the District of Columbia. The term "United States" when used in a geographical sense includes all those places named in the previous sentence, and all other places continental or insular, subject to the jurisdiction of the United States;

(2) the term "financial assistance" when used in subchapters I and II of this chapter, part B of subchapter III of this chapter, subchapter IV of this chapter, and part B of subchapter V of this chapter includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(3) the term "permanent resident of the United States" when used in parts A and B of subchapter I of this chapter shall include any native and citizen of Cuba who arrived in the United States from Cuba as a nonimmigrant or as a parolee subsequent to January 1, 1959, under the provisions of section 1184(a) or 1182(d)(5) of Title 8, respectively, or any person admitted as a conditional entrant under section 1153(a)(7) of Title 8; and

(4) the term "Director" means the Director of the Office of Economic Opportunity.

(Pub. L. 88-452, title VI, § 609, Aug. 20, 1964, 78 Stat. 532; Pub. L. 90-222, title I, § 108(f), Dec. 23, 1967, 81 Stat. 715; Pub. L. 91-177, title I, § 109, Dec. 30, 1969, 83 Stat. 830.)

AMENDMENTS

1969—Par. (1). Pub. L. 91-177 substituted "subchapters I, II, part A of subchapter III, and subchapter IV" for "subchapters I and II."

1967—Pub. L. 90-222 substituted reference to subchapter II for reference to Part A of subchapter II in the definition of "State" and, in such definition, added exception when "State" is used in section 2812 of this title, substituted definition of "financial assistance" and "permanent resident of the United States" for definition of "agency" and "family" respectively, and added definition to "Director".

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2716 of this title.

§ 2950. Programs for the elderly poor.

It is the intention of Congress that whenever feasible the special problems of the elderly poor shall be considered in the development, conduct, and administration of programs under this chapter. The Director shall (1) carry out such investigations and studies, including consultations with appropriate agencies and organizations, as may be necessary to develop and carry out a plan for the participation of the elderly poor in programs under this chapter, including programs providing employment opportunities, public service opportunities, education and other services and activities which assist the elderly poor to achieve self-sufficiency; (2) maintain a constant review of all programs under this chapter to assure that the needs of the elderly poor are given adequate consideration; (3) initiate and maintain interagency liaison with all other appropriate Federal agencies to achieve a coordinated national approach to the needs of the elderly poor; and (4) determine and recommend to the President and the Congress such programs requiring additional authority and the necessary legislation to provide such authority. In exercising his responsibilities under this section, the Director shall cooperate with the Commissioner on Aging. The Director shall describe the ways in which this section has been implemented in the annual report required by section 2948 of this title. (Pub. L. 88-452, title VI, § 610, as added Pub. L. 89-253, § 28, Oct. 9, 1965, 79 Stat. 978, and amended Pub. L. 89-794, title VI, § 601(b), Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90-222, title I, § 108(g), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Pub. L. 90-222 added provisions for participation of the poor in programs under this chapter, achievement of self-sufficiency, maintenance of constant review of the programs under this chapter, maintenance of interagency liaison, cooperation with the Commissioner on Aging, and the submission of an annual report.

1966—Pub. L. 89-794 required the Director to carry out such investigations and studies, including consultations with appropriate agencies and organizations as may be necessary (1) to develop programs providing employment opportunities, public service opportunities, and education for the elderly poor under the provisions of this chapter, and (2) to determine and recommend to the President and the Congress such programs requiring additional authority and the necessary legislation to provide such authority.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90-222, set out as a note under section 2711 of this title.

§ 2951. Comparability of wages.

(a) Average rate of compensation for substantially comparable services; minimum wages.

The Director shall take such action as may be necessary to assure that persons employed in carrying out programs financed under part A of subchapter I or subchapter II of this chapter (except a person compensated as provided in section 2942 of this title) shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher or (2) less than the minimum wage rate prescribed in section 206(a)(1) of Title 29.

(b) Roster of personnel receiving salaries of $10,000 or more.

Not later than sixty days after the close of the fiscal year 1967 and each fiscal year thereafter the

Director shall prepare and submit to the President for submission to the Congress a list of the names of all officers or employees whose compensation is subject to the limitations set forth in subsection (a) of this section and who were receiving at the end of such fiscal year a salary of $10,000 or more per year, together with the amount of compensation paid to each such person and the amount of such compensation paid from funds advanced or granted pursuant to this chapter. No grant, contract or agreement shall be made under any of the provisions of this chapter referred to in subsection (a) of this section which does not contain adequate provisions to assure the furnishing of information required by the preceding sentence.

(c) Relationship of salary to previous earnings; adjustment to annual basis.

No person whose compensation exceeds $6,000 per annum and is paid pursuant to any grant, contract, or agreement authorized under part A of subchapter I or part A of subchapter II (except a person compensated as provided in section 2942 of this title) shall be employed at a rate of compensation which exceeds by more than 20 percent the salary which he was receiving in his immediately preceding employment, but the Director may grant exceptions for specific cases. In determining salary in preceding employment for one regularly employed for a period of less than 12 months per year, the salary shall be adjusted to an annual basis. (Pub. L. 38–452, title VI, § 610–1, as added Pub. L. 89–794, title VI, § 606, Nov. 8, 1966, 80 Stat. 1470, and amended Pub. L. 90–222, title I, § 108(h), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–222 substituted reference to subchapter II for reference to Part A of subchapter II and substituted "a substantial number of the persons" for "persons" in the references to the group providing substantially comparable services for purposes of determining the average rate of compensation paid.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2961. Limitation on benefits for those voluntarily poor.

The Director shall take such action as may be necessary to assure that, in determining a person's eligibility for benefits under this chapter on account of his poverty, such person will not be deemed to meet the poverty criteria if his lack of income results from his refusal, without good cause, to seek or accept employment commensurate with his health, age, education, and ability. (Pub. L. 88–452, title VI, § 611, Aug. 20, 1964, 78 Stat. 532; Pub. L. 89–794, title VI, § 607, Nov. 8, 1966, 80 Stat. 1470; Pub. L. 90–222, title I, § 108(i), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions placing limitations on benefits for those voluntarily poor for provisions for the coordination of programs, including statistical data, the cooperation of Federal agencies with the Director, prohibition against the creation of departments or offices to carry out the functions of existing departments or offices, the coordination of programs relating to training for improvement or restoration of employability, and the responsibilities of the Secretary of Labor in supplying employment information.

1966—Subsec. (c), (d). Pub. L. 89–794 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2962. Joint funding.

Pursuant to regulations prescribed by the President, where funds are advanced for a single project by more than one Federal agency to a community action agency or other agency assisted under this chapter, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single local share requirement may be established according to the proportion of funds advanced by each agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. (Pub. L. 88–452, title VI, § 612, Aug. 20, 1964, 78 Stat. 533; Pub. L. 90–222, title I, § 108(j), Dec. 23, 1967, 81 Stat. 716.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions for the joint funding of a single project by more than one Federal agency for provisions directing that preference be given community action programs.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

EX. ORD. NO. 11466. ADMINISTRATION OF CERTAIN JOINTLY FUNDED PROJECTS

Ex. Ord. No. 11466, Apr. 18, 1969, 34 F.R. 6727, provided:

By virtue of the authority vested in me by section 612 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2962) [this section], section 406 of the Juvenile Delinquency Prevention and Control Act of 1968 (42 U.S.C. 3886) and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Director of the Bureau of the Budget is authorized to designate, from time to time, projects for joint funding under section 612 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2962) [this section], and section 406 of the Juvenile Delinquency Prevention and Control Act of 1968 (42 U.S.C. 3886). The Director of the Bureau of the Budget [now the Office of Management and Budget] is also authorized to designate, or provide criteria for the designation of, one Federal agency to act for all participating agencies in administering any such jointly funded project.

SEC. 2. Any Federal agency designated pursuant to section 1 of this order to administer any jointly funded project may waive any technical grant or contract requirement which is inconsistent with such agency's similar requirements or which such agency does not impose, except that no waiver of requirements may be made which (1) would materially affect or change the character or purpose of such project, or (2) does not have the concurrence of the agency which imposed such requirement and advanced the funds for such project. For the purposes of this section, the term "technical grant or contract requirement" means any requirement imposed by administrative regulation or order.

SEC. 3. The Director of the Bureau of the Budget [now the Office of Management and Budget] is authorized to prescribe such additional regulations, not inconsistent with those prescribed herein, as he may deem necessary to implement section 612 of the Economic Opportunity

Act of 1964, as amended [this section], section 406 of the Juvenile Deliquency Prevention and Control Act of 1968 [section 3886 of this title], and this order.

SEC. 4. In carrying out the provisions of this order, the Director of the Bureau of the Budget [now the Office of Management and Budget] shall from time to time consult with the participating Federal agencies as may be appropriate.

SEC. 5. Nothing in this order shall be deemed to limit or restrict any other authority which any Federal agency may possess by law, regulation, or order to initiate or participate in common or jointly funded projects, programs, activities, or functions.

RICHARD NIXON

§ 2963. Unlawful demonstrations, rioting, and civil disturbance.

No individual employed or assigned by any community action agency or other agency assisted under this chapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this chapter by such community action agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance. (Pub. L. 88–452, title VI, § 613, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89–794, title VI, § 608, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 90–222, title I, § 108 (k), Dec. 23, 1967, 81 Stat. 717.)

AMENDMENTS

1967—Pub. L. 90–222 substituted provisions placing limitations on service under this chapter with respect to unlawful demonstrations, rioting, or civil disturbances for provisions covering the collection, analysis, and distribution of information concerning Federal programs, the catalog of Federal programs relating to individual and community improvement, and the dissemination of current information.

1966—Pub. L. 89–794 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2964. Prohibition of Federal control over curriculum, program of instruction, administration, or personnel of educational institutions or school systems.

Nothing contained in this chapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system. (Pub. L. 88–452, title VI, § 614, Aug. 20, 1964, 78 Stat. 533.)

§ 2965. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the five succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (Pub. L. 88–452, title VI, § 615, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89–253, § 30(e), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title VI, § 609, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 91–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827.)

AMENDMENTS

1969—Pub. L. 91–177 substituted "five" for "three".

1966—Pub. L. 89–794 extended from June 30, 1968, to June 30, 1970, the authority to carry out the programs provided for in this subchapter and struck out authorization of appropriations of $10,000,000 for the fiscal year ending June 30, 1965, and $30,000,000 for the fiscal year ending June 30, 1966, other than for purposes of making credits to the revolving fund established by section 2946 (a) of this title.

1965—Pub. L. 89–253 extended for one year (through the fiscal year ending June 30, 1968) the period for carrying out the programs of the subchapter, authorized an appropriation of $30,000,000 for the fiscal year ending June 30, 1966, and added a provision for the appropriation of a sum for the fiscal year ending June 30, 1968, as the Congress may hereafter authorize by law.

§ 2966. Transfer of funds.

Notwithstanding any limitation on appropriations for any program or activity under this chapter or any Act authorizing appropriations for such program or activity, not to exceed 10 per centum for fiscal years ending prior to July 1, 1970, and not to exceed 15 per centum for fiscal years ending thereafter; of the amount appropriated or allocated from any appropriation for the purpose of enabling the Director to carry out any such program or activity under this chapter may be transferred and used by the Director for the purpose of carrying out any other such program or activity under this chapter; but no such transfer shall result in increasing the amounts otherwise available for any program or activity by—

(1) more than 100 per centum in the case of any program or activity for which the amounts otherwise available are $10,000,000 or less; or

(2) more than 35 per centum in the case of any program or activity for which the amounts otherwise available exceed $10,000,000. (Pub. L. 88–452, title VI, § 616, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89–253, § 29, Oct. 9, 1965, 79 Stat. 978; Nov. 8, 1966, Pub. L. 89–794, title VI, § 610, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 90–222, title I, § 108(*l*), Dec. 23, 1967, 81 Stat. 717; Pub. L. 91–177, title I, § 110, Dec. 30, 1969, 83 Stat. 831.)

AMENDMENTS

1969—Pub. L. 91–177 increased the percentage of funds that may be transferred for use by the Director to carry out programs other than those for which the funds were appropriated, from 10 to 15 percent, for the fiscal years ending after July 1, 1970, and removed the restriction that prevented the transfer of funds to other programs in such manner as to increase by more than 10 percent the amounts otherwise available to any program or activity, by adding provisions allowing increases varying from 35 to 100 percent, according as the amounts otherwise made available for any such program or activity are over $10,000,000 or $10,000,000 or less.

1967—Pub. L. 90–222 struck out provisions excepting limitations or authorizations for programs under Part C of subchapter I of this chapter from the prohibition against the transfer of more than 10 per centum of the funds appropriated for one program for use in another program under this chapter.

1966—Pub. L. 89–794 inserted reference to other Acts authorizing appropriations for any subchapter of this chapter other than part C of subchapter I.

1965—Pub. L. 89–253 substituted provisions placing a limit of 10 percent of the amount appropriated or allocated on the funds which can be transferred from the programs of one subchapter to the programs of another and limiting to 10 percent the amount by which the amount available under any subchapter may be thereby

increased for provisions requiring a disclaimer affidavit from individuals receiving payments under the authority of this chapter.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2702, 2702a of this title.

§ 2967. Distribution of benefits between rural and urban areas.

The Director shall adopt appropriate administrative measures to assure that benefits of this chapter will be distributed equitably between residents of rural and urban areas. (Pub. L. 88–452, title VI, § 617, as added Pub. L. 89–253, § 30(f), Oct. 9, 1965, 79 Stat. 797.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2785 of this title.

§ 2968. Limiation on additional positions in specified classification categories in Office of Economic Opportunity for fiscal 1967.

No additional positions above those authorized on November 8, 1966, shall be created or filled in fiscal year ending June 30, 1967 in the classification categories of GS 16, 17, and 18 of the General Schedule of section 5332 of Title 5 in the Office of Economic Opportunity and its field offices. (Pub. L. 88–452, title VI, § 618, as added Pub. L. 89–794, title VI, § 611, Nov. 8, 1966, 80 Stat. 1471.)

§ 2969. Limitation on Federal administrative expenses.

The total administrative expenses, including the compensation of Federal employees, incurred by Federal agencies under the authority of this chapter for any fiscal year shall not exceed ten percent of the amount authorized to be appropriated by this chapter for that year: *Provided, however,* That grants, subsidies, and contributions, and payments to individuals, other than Federal employees shall not be counted as an administrative expense. (Pub. L. 88–452, title VI, § 619, as added Pub. L. 89–794, title VI, § 612, Nov. 8, 1966, 80 Stat. 1472.)

§ 2970. Maximum use of private enterprise resources; annual report to Congress.

The Director and the heads of any other Federal departments or agencies to which the conduct of programs described in this chapter have been delegated shall take such steps as may be desirable and appropriate to insure that the resources of private enterprise are employed to the maximum feasible extent in the programs described in this chapter. The Director and such other agency heads shall submit at least annually to the Congress a joint or combined report describing the actions taken and the progress made under this section. (Pub. L. 88–452, title VI, § 620, as added Pub. L. 89–794, title VI, § 614(a), Nov. 8, 1966, 80 Stat. 1472.)

§ 2971. Responsibility for follow through programs.

Pursuant to section 2942(d) of this title, the Director shall delegate his functions under section 2809 (a)(2) of this title to the Secretary of Health, Education, and Welfare, and such functions shall be carried out through the Office of Education of the Department of Health, Education, and Welfare. (Pub. L. 88–452, title VI, § 621, as added Pub. L. 90–222, title I, § 108(m)(1), Dec. 23, 1967, 81 Stat. 717.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2971a. Advance funding.

For the purpose of affording adequate notice of funding available under this chapter, appropriations for grants, contracts, or other payments under this chapter are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. (Pub. L. 88–452, title VI, § 622, as added Pub. L. 91–177, title I, § 111(a), Dec. 30, 1969, 83 Stat. 831.)

TRANSITION TO ADVANCE FUNDING METHOD

Section 111(b) of Pub. L. 91–177 provided that: "In order to effect a transition to the advance funding method of timing appropriation action, the amendment made by subsection (a) [adding this section] shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year."

PART B.—COORDINATION

§ 2972. Congressional statement of purpose.

This part establishes an Economic Opportunity Council, provides for an information center, and prescribes certain duties and responsibilities. Its purpose is to promote better coordination among all programs related to this chapter, with a view to making those programs more effective in reaching and serving the poor, assisting State and local agencies to adapt diverse Federal programs to varying local problems and conditions, stimulating new and more imaginative ways of combining complementary Federal resources in the solution of specific problems, and generally improving cooperation and communication among all levels of government, agencies, and institutions in matters related to the purposes of this chapter. (Pub. L. 88–452, title VI, § 630, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 717.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2973. Economic Opportunity Council.

(a) Establishment; composition; designation of members and chairman.

There is established, in the Executive Office of the President, the Economic Opportunity Council (hereinafter referred to as the "Council"), which shall be composed of the Director and the heads of such Federal departments and agencies, such Presidential assistants and such other officials of the Federal Government as the President may from time to time designate. The President shall designate one of the members of the Council to serve as chairman. Each member shall designate an alternate to sit in his stead in the event of his unavoidable absence.

(b) Functions.

It shall be the responsibility of the Council to assist the President in—

(1) providing for the coordination of Federal programs and activities related to this chapter;

(2) developing basic policies and setting priorities with respect to such programs and activities;

(3) resolving differences arising among Federal departments and agencies with respect to such programs and activities; and

(4) initiating and arranging for the carrying out of specific actions or projects designed to achieve the objectives of this chapter.

(c) Executive Secretary; detail of Federal employees.

The President shall appoint an Executive Secretary of the Council. The Executive Secretary is authorized to appoint and fix the compensation of such personnel as may be necessary to assist him in the performance of his duties. Employees of other Federal departments and agencies may be detailed to the Council from time to time to provide temporary assistance.

(d) Report.

To the extent appropriate, a report of the activities of the Council shall be included in the annual report of the Director to the President and to the Congress, or in a separate report to the Congress.

(e) Reservation of necessary funds for Council.

From the sums authorized and appropriated to carry out the provisions of this subchapter, the President shall reserve such amounts as may be necessary to carry out the purposes of this section. (Pub. L. 88–452, title VI, § 631, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 718.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2974. Responsibilities of the Director.

In addition to his other powers under this chapter, and to assist the President in coordinating the antipoverty efforts of all Federal agencies, the Director shall—

(1) undertake special studies of specific coordination problems at the request of the President or the Council, or on his own initiative;

(2) carry on a continuing evaluation of all activities under this chapter, and consult with interested agencies and groups, including State agencies described in section 2824 of the title and the National Advisory Council, with a view to identifying coordination problems that may warrant consideration by the Council or the President and, to the extent feasible or appropriate, initiate action for overcoming those problems, either through the Office of Economic Opportunity or in conjunction with other Federal, State, or local agencies; and

(3) prepare a five-year national poverty action plan showing estimates of Federal and other governmental expenditures, and, where feasible, the contributions of the private sector, needed to eliminate poverty in this country within alternative periods of time. Such plan shall include estimates of the funds necessary to finance all relevant programs authorized by this chapter and other Acts, and any new programs which may be necessary to eliminate poverty in this country, and it shall include recommendations for such new programs. The plan shall be presented to the Congress and updated on an annual basis.

(Pub. L. 88–452, title VI, § 632, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 718.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2975. Cooperation of Federal agencies.

(a) Federal agencies administering programs related to this chapter shall—

(1) cooperate with the Director and with the Council in carrying out their duties and responsibilities; and

(2) carry out their programs and exercise their functions so as to assist in carrying out the provisions and purposes of this chapter, to the fullest extent permitted by other applicable law.

(b) The Council and the Director may call upon Federal agencies to supply statistical data, program reports, and other materials as they deem necessary to discharge their responsibilities under this chapter.

(c) The President may direct that particular programs and functions, including the expenditure of funds, of Federal agencies shall be carried out, to the extent not inconsistent with other applicable law, in conjunction with or in support of programs authorized under this chapter. (Pub. L. 88–452, title VI, § 633, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 719.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2976. Combinations among projects and programs.

In order to encourage efficiencies, close unnecessary service gaps, and generally promote more effective administration, the Director shall require, to the fullest extent feasible, that projects or programs assisted under this chapter be carried on so as to supplement one another, or where appropriate other related programs or projects, and be included within or otherwise carried on in combination with community action programs. In the case of other programs related to this chapter, the heads of the Federal agencies responsible for those programs shall, to the extent permitted by law, similarly provide assistance for projects and activities in a manner which encourages combinations with other related projects and activities where appropriate, and with community action programs. The Economic Opportunity Council shall, in carrying out its responsibilities under this part, make a continuing review of the operation of this section with a view to (1) determining particular groups of programs which, because of their objectives, or similarities in target groups or

areas, are especially appropriate for combined or closely coordinated operation at the State or local level, and making recommendations accordingly to the President or appropriate Federal officials; (2) evaluating Federal agency procedures for carrying out this section, and developing or recommending additional or common procedures, as appropriate; and (3) determining whether, and to what extent, consolidations of Federal programs may be justified and making recommendations respecting such consolidations to the Director and the President. (Pub. L. 88–452, title VI, § 634, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 719.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2977. Information center.

(a) Establishment and operation.

The Director shall establish and operate an information center for the purpose of insuring that maximum use is made of Federal programs related to this chapter and that information concerning those programs and other relevant information is readily available to public officials and other interested persons. The Director shall collect, prepare, analyze, correlate, and distribute information as described above, either free of charge or by sale at cost (any funds so received to be deposited to the Director's account as an offset of that cost), and may make arrangements and pay for any printing and binding without regard to the provisions of any other law or regulations. In connection with operation of the center, the Director may carry on research or studies concerning the improvement of information systems in support of the purposes of this chapter, the adequacy of existing data, ways in which data generated on the State and local level may be incorporated into Federal information systems, and methods by which data may be made more readily available to State and local officials or used to further coordination objectives.

(b) Catalog of Federal programs relating to individual and community improvement.

The Director shall publish and maintain on a current basis, a catalog of Federal programs relating to individual and community improvement. He may also make grants, from funds appropriated to carry out subchapter II of this chapter, to States and communities to establish information service centers for the collection, correlation, and distribution of information required to further the purposes of this chapter.

(c) Dissemination of current information.

In order to assure that all appropriate officials are kept fully informed of programs related to this chapter, and that maximum use is made of those programs, the Director shall establish procedures to assure prompt distribution to State and local agencies of all current information, including administrative rules, regulations, and guidelines, required by those agencies for the effective performance of their responsibilities. (Pub. L. 88–452, title VI, § 635, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 719.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2978. Duplication of existing functions by new departments or offices prohibited.

In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this chapter, no funds appropriated to carry out this chapter shall be used to establish any new department or office when the intended function is being performed by an existing department or office. (Pub. L. 88–452, title VI, § 636, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 720.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2979. Special responsibilities; training programs.

(a) It shall be the responsibility of the Director, the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the heads of all other departments and agencies concerned, acting through such procedures or mechanisms as the President may prescribe, to provide for, and take such steps as may be necessary and appropriate to implement, the effective coordination of all programs and activities within the executive branch of the Government relating to the training of individuals for the purpose of improving or restoring employability.

(b) The Secretary of Labor, pursuant to such agreements as may be necessary or appropriate (which may include arrangements for reimbursement) shall—

(1) be responsible for assuring that the Federal-State employment service provides and develops its capacity for providing maximum support for the programs described in subsection (a) of this section, and

(2) obtain from the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Director of the Office of Economic Opportunity, and the head of any other Federal agency administering a training program, such employment information as will facilitate placement of individuals being trained.

(Pub. L. 88–452, title VI, § 637, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 720.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

EX. ORD. NO. 11422. COOPERATIVE AREA MANPOWER PLANNING SYSTEM

Ex. Ord. No. 11422, Aug. 15, 1968, 33 F.R. 11739, provided:

WHEREAS Federal legislation enacted in recent years has established numerous manpower programs to improve the employability of disadvantaged, unemployed, and underemployed persons; and

WHEREAS administration of these manpower and related service programs requires extensive participation of State and local governments and nongovernment agencies; and

WHEREAS experience has demonstrated that close coordination of the operating programs at the local, State, and Federal levels is essential to their successful, effective, and economical implementation:

NOW, THEREFORE, by virtue of the authority vested in me by section 637 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2979), and as President of the United States, it is ordered as follows:

SECTION 1. *Policy* (a) Cooperative planning and execution of manpower training and supportive manpower service programs is hereby established as the policy of the Federal Government.

(b) Each Federal executive department or agency administering manpower training or supportive manpower service programs shall, to the extent consistent with law, carry out its programs and exercise its functions so as to further the policy herein enunciated.

SEC. 2. *The Cooperative Area Manpower Planning System.* (a) The Cooperative Area Manpower Planning System (hereinafter referred to as CAMPS) is hereby recognized as a primary instrument for carrying out the policy stated in section 1 above.

(b) The Departments of Labor; Health, Education, and Welfare; Commerce; Housing and Urban Development; Agriculture; and the Interior; the Office of Economic Opportunity; and the Civil Service Commission, together with their affiliated organizations and such additional Federal executive departments and agencies as may be mutually agreed upon by them, shall participate in CAMPS for the purposes of cooperatively planning and executing manpower programs and supportive manpower service programs in urban and rural areas.

(c) Each department and agency included in CAMPS shall participate in manpower coordinating committees at the national and regional levels. The Secretary of Labor shall designate the chairmen of such committees. To the extent practical and necessary, each such department and agency shall also participate, either directly or through affiliated State, local, or nongovernmental organizations with which it maintains grant-in-aid or contractual relationships, in cooperative manpower planning at State and area levels.

(d) To the extent consistent with law, each department or agency included in CAMPS shall carry out its responsibilities with respect to Federal assistance, State and local planning, and utilization of resources so as to further the purposes of this order.

SEC. 3. *Administrative services.* In compliance with provisions of applicable law, and as necessary to effectuate the purposes of this order, the Department of Labor shall provide or arrange for administrative services and staff support for all CAMPS coordinating committees, and each Federal department or agency participating in CAMPS shall furnish such informtion and other assistance as may be necessary and available.

SEC. 4. *Construction.* Nothing in this order shall be construed as subjecting any Federal department or agency or the head thereof, or any function vested by law in or assigned pursuant to law to any such department, agency, or head, to the authority of any other department, agency, or head.

LYNDON B. JOHNSON

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2723 of this title.

§ 2980. Definitions.

As used in this part, "programs related to this chapter" and "coordination" shall include the programs and actions described in this section:

(1) "Programs related to this chapter" include programs under this chapter and all Federal or federally assisted programs which have objectives which are, in whole or substantial part, complementary to the purposes of this chapter, or which provide resources which may be used in combination with resources under this chapter to assist in achieving any of the purposes of this chapter.

(2) "Coordination" includes, but is not limited to—

(A) actions to improve the common effectiveness of programs in reaching and serving the poor, such as actions: to extend services to new areas, provide them in a common place, or structure them so that they are more readily accepted or widely utilized; to eliminate procedures or requirements that may be inappropriate for or result in unnecessary hardship to disadvantaged persons with limited education or other special handicaps; to establish common eligibility standards among programs serving substantially similar groups or operating in the same areas; or to develop methods of operation or administration that will provide new employment incentives or opportunities for the poor;

(B) actions to promote better use at the State or local level of Federal assistance available under diverse programs, such as actions to establish procedures for cooperation among State or local agencies seeking assistance from different Federal sources with a view to eliminating unnecessary duplication and service gaps and promoting common or complementary priorities; or to modify or improve technical or administrative requirements imposed by different Federal agencies that may operate to increase unnecessarily the burdens of State or local agencies, minimize their opportunities for the imaginative use of Federal assistance, or discourage their cooperation with one another;

(C) actions to promote simplification and efficiencies through the joint or combined use of Federal resources, such as actions to develop new methods of processing requests for assistance or granting assistance that will enable Federal agencies more generally to use resources jointly in support of common objectives; to establish common priorities for purposes of program planning, research and demonstration activities; and to effect combinations among or redirect Federal programs or activities for the purpose of eliminating unnecessary duplication;

(D) actions to improve communication and general cooperation, such as actions to strengthen ties among regional offices of different Federal agencies and among such offices and other regional agencies or organizations; to develop and improve procedures by which Federal agencies may act together in promulgating or making available items of information, including information as to the availability and allocation of funds, which are closely related to one another for purposes of State or local planning and budgeting; or to develop procedures by which State and local agencies may be afforded new opportunities to participate in Federal policy decisions, including decisions on recommended legislation, affecting their capacity to operate efficiently and effectively.

(Pub. L. 88–452, title VI, § 638, as added Pub. L. 90–222, title I, § 108(m)(3), Dec. 23, 1967, 81 Stat. 721.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SUBCHAPTER VII.—TREATMENT OF INCOME FOR CERTAIN PUBLIC ASSISTANCE PURPOSES

§ 2981. Public assistance; provisions of State plan; withholding of payments.

(a) Notwithstanding the provisions of titles I, IV, X, XIV, XVI, and XIX of the Social Security Act, a State plan approved under any such title shall provide that—

(1) the first $85 plus one-half of the excess over $85 of payments made to or on behalf of any person for or with respect to any month under title I or II of this Act or any program assisted under such title shall not be regarded (A) as income or resources of such person in determining his need under such approved State plan, or (B) as income or resources of any other individual in determining the need of such other individual under such approved State plan;

(2) no payments made to or on behalf of any person for or with respect to any month under such title or any such program shall be regarded as income or resources of any other individual in determining the need of such other individual under such approved State plan except to the extent made available to or for the benefit of such other individual; and

(3) no grant made to any family under title III of this Act shall be regarded as income or resources of such family in determining the need of any member thereof under such approved State plan.

(b) No funds to which a State is otherwise entitled under title I, IV, X, XIV, or XVI of the Social Security Act for any period before July 1, 1968, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section. With respect to any period after June 30, 1969, subsection (a) of this section shall not apply. (Pub. L. 88–452, title VII, § 701, Aug. 20, 1964, 78 Stat. 534; Pub. L. 89–794, title VII, § 701(a), Nov. 8, 1966, 80 Stat. 1472; Pub. L. 90–222, title I, § 109, Dec. 23, 1967, 81 Stat. 722.)

REFERENCES IN TEXT

Titles I, IV, X, XIV, XVI, and XIX of the Social Security Act, referred to in text, are classified to subchapters I, IV, X, XIV, XVI, and XIX of chapter 7 of this title.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–222 substituted "1968" for "1965" and added provision that, with respect to any period after June 30, 1969, subsection (a) of this section would not apply.

1966—Subsec. (a). Pub. L. 89–794 inserted reference to title XIX of the Social Security Act in the material preceding par. (1).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

WITHHOLDING OF MEDICAL ASSISTANCE PROGRAM FUNDS FOR PERIOD BEFORE OCT. 1, 1967, PROHIBITED

Section 701(b) of Pub. L. 89–794 provided that: "No funds to which a State is otherwise entitled under title XIX of the Social Security Act [section 1396 et seq. of this title] for any period before October 1, 1967, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements resulting from the amendment made by subsection (a) [amending subsec. (a) of this section]."

EXTENSION OF GRACE PERIOD FOR DISREGARDING CERTAIN INCOME FOR STATES UNTIL STATE LEGISLATURE MEETS IN A REGULAR SESSION WHICH ADJOURNS AFTER AUGUST 20, 1964

Pub. L. 89–97, title IV, § 407, July 30, 1965, 79 Stat. 422, provided that: "Notwithstanding the provisions of section 701 of the Economic Opportunity Act of 1964 [this section], no funds to which a State is otherwise entitled under title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapter I, IV, X, XIV, XVI, or XIX of chapter 7 of this title] for any period before the first month beginning after the adjournment of a State's first regular legislative session which adjourns after August 20, 1964 (the date of enactment of the Economic Opportunity Act of 1964), shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of such section 701 [subsec. (a) of this section]."

INCLUSION OF PAYMENTS TO INDIVIDUALS PURSUANT TO PROJECTS UNDER NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS IN COMPUTATION OF AMOUNT OF PUBLIC ASSISTANCE

Computation of amount of public assistance payments to reflect payments to individuals pursuant to projects under National Older Americans Volunteer Programs, see section 11 of Pub. L. 91–69, set out as a note under section 3044 of this title.

SUBCHAPTER VIII.—VOLUNTEERS IN SERVICE TO AMERICA

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2702, 2702a of this title; title 5 section 8143; title 20 sections 425, 1077, 1078.

§ 2991. Congressional statement of purpose.

This subchapter provides for a program of full-time volunteer service, for programs of part-time or short-term community volunteer service, and for special volunteer programs, together with other powers and responsibilities designed to assist in the development and coordination of volunteer programs. Its purpose is to strengthen and supplement efforts to eliminate poverty by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive service as volunteers in part-time or short-term programs in their home or nearby communities, and as full-time volunteers serving in rural areas and urban communities, on Indian reservations, among migrant workers, in Job Corps centers, and in other agencies, institutions, and situations where the application of human talent and dedication may help the poor to overcome the handicaps of poverty and to secure and exploit opportunities for self-advancement. (Pub. L. 88–452, title VIII, § 801, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1472, and amended Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.)

AMENDMENTS

1967—Pub. L. 90–222 restated the purposes of this subchapter, adding reference, among others, to full-time volunteer service, part-time or short-time community volunteer service, special volunteer programs, other powers and responsibilities designed to assist in the development and coordination of volunteer programs, and elderly and retired Americans.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment Pub. L. 90–222 effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§§ 2991a to 2991e. Omitted.

CODIFICATION

Sections were omitted in the general reorganization of this subchapter by Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.

Section 2991a, Pub. L. 88–452, title VIII, § 802, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, covered the recruitment, selection, training, referral, and assignment of volunteers and the consent of the Governors of the States in which these activities are conducted.

Section 2991b, Pub. L. 88–452, title VIII, § 803, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, provided for the stipend for volunteers, living, travel, and leave allowances, and subsistence.

Section 2991c, Pub. L. 88–452, title VIII, § 804, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1473, and amended Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 224, provided for the applicability of specified Federal laws, the required oath or affirmation, and the status of volunteers as Federal employees and as persons employed in the executive branch of the Federal Government. See section 2994b of this title.

Section 2991d, Pub. L. 88–452, title VIII, § 805, as added Pub. L. 89–794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1474, provided for special programs and projects and placed limitations on the use of appropriated funds. See section 2994c of this title.

Section 2991e, Pub. L. 88–452, title VIII, § 806, as added Pub. L. 89–794, title VIII, § 801, No. 8, 1966, 80 Stat. 1474, provided for the duration of the VISTA program through June 30, 1970. See section 2994d of this title.

PART A.—FULL-TIME VOLUNTEER PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2994b of this title.

§ 2992. Authority to establish full-time programs.

(a) The Director may recruit, select, and train persons to serve in full-time volunteer programs, and upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations of migratory workers and their families, or of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands;

(2) in the care and rehabilitation of the mentally ill or mentally retarded under treatment at nonprofit mental health or mental retardation facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this chapter.

(b) The assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assigments in their own or nearby communities; but volunteers under this part shall not be assigned to duties or work in any State without the consent of the Governor. The assignment of such a volunteer in any State shall be terminated by the Director when so requested by the Governor of such State not later than thirty days or at a time thereafter agreed upon by the Governor and Director after such requests has been made by the Governor to the Director. (Pub. L. 88–452, title VIII, § 810, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 722.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2993 of this title.

§ 2992a. Terms of service.

(a) Commitment to full-time service.

Volunteers under this part shall be required to make a full-time personal commitment to combating poverty. To the extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their term of service, except for authorized periods of leave.

(b) One-year enrollment; shorter enrollment for volunteer associates.

Volunteers under this part shall be enrolled for one-year periods of service, excluding time devoted to training. The Director may, however, allow persons who are unable to make a full one-year commitment to enroll as volunteer associates for periods of service of not less than two months where he determines that this more limited service will effectively promote the purposes of this subchapter.

(c) Oath or affirmation.

All volunteers under this part shall take and subscribe to an oath or affirmation in the form prescribed by section 2716 of this title, and the provisions of section 1001 of Title 18, shall be applicable with respect to that oath or affirmation. (Pub. L. 88–452, title VIII, § 811, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 723.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2992b. Support of full-time volunteers.

(a) Stipend; allowances.

The Director may provide a stipend to volunteers under this part while they are in training and on assignment, but the stipend shall not exceed $50 per month during the volunteer's first year of service. He may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards prescribed by him, have been designated volunteer leaders on the basis of experience and special skills. The Director may also provide volunteers such

living, travel (including travel to and from the place of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, or such other support, as he may deem necessary or appropriate for their needs.

(b) Payment upon completion of term; advancement of accrued stipend.

Stipends shall be payable only upon completion of a term of service; except that in extraordinary circumstances the Director may from time to time advance accrued stipend, or any portion thereof, to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of Title 5.

(c) Counseling.

The Director may provide or arrange for educational and vocational counseling of volunteers and recent volunteers to encourage them to use the skills and experience which they have derived from their training and service in the national interest, and particularly in combating poverty as members of the helping professions. (Pub. L. 88–452, title VIII, § 812, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 723.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART B.—AUXILIARY AND SPECIAL VOLUNTEER PROGRAMS

§ 2993. Community service programs.

(a) Term of service; activities.

The Director shall develop programs designed to expand opportunities for persons to participate in a direct and personal way, on a part-time basis or for shorter periods of service than are required for enrollment under section 2992 of this title, and in their home or nearby communities, in volunteer activities contributing to the elimination of poverty. Pursuant to appropriate plans, agreements, or arrangements the Director may provide financial, technical, or other assistance needed to carry on projects that are undertaken in connection with these programs. These projects may include, without limitation, activities designed (1) to encourage greater numbers of persons to participate, as volunteers, in local programs and projects assisted under this chapter, with particular emphasis upon programs designed to aid youth or promote child development; (2) to encourage persons with needed managerial, professional, or technical skills to contribute those skills to programs for the development or betterment of urban and rural neighborhoods or areas having especially large concentrations or proportions of the poor, with particular emphasis upon helping residents of those neighborhoods or areas to develop the competence necessary to take advantage of public and private resources which would not otherwise be available or used for those programs; and (3) to assist existing national and local agencies relying upon or in need of volunteers to obtain volunteer services more readily, or to provide specialized short-term training, with particular emphasis on agencies serving the most seriously disadvantaged, operating in areas of the most concentrated poverty, or having similar critical needs.

(b) Support and allowances.

Persons serving as volunteers under this section shall receive no living allowance or stipend and only such other support or allowances as the Director determines, pursuant to regulations, are required because of unusual or special circumstances affecting the project.

(c) Allowance of service as non-Federal contribution.

The services of any person, if otherwise allowable as a non-Federal contribution toward the cost of any program or project assisted under this chapter or any other Federal Act, shall not be disallowed merely by reason of actions of the Director under this section in providing for or assisting in the recruitment, referral, or preservice training of such person. (Pub. L. 88–452, title VIII, § 820, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 724.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2993a. Special volunteer programs.

The Director is authorized to conduct, or provide by grant or contract for, special volunteer programs designed to stimulate and initiate improved methods of providing volunteer services and to encourage wider volunteer participation, in furtherance of the purposes of this subchapter. Not to exceed 10 per centum of the sums appropriated or allocated from any appropriation to carry out this subchapter for any fiscal year may be used for programs under this section. (Pub. L. 88–452, title VIII, § 821, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 724.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2993b. Demonstration projects to help young adult criminal offenders.

(a) The Director is authorized to conduct, or to make grants, contracts, or other arrangements for the conduct of demonstration projects in not more than four years during the fiscal year ending June 30, 1968, and in not more than six areas during each of the two succeeding fiscal years, under which—

(1) volunteers under part A of this subchapter, and members of the Teacher Corps furnished pursuant to this section, provide criminal offenders aged sixteen through twenty-five with intensive education, training, and counseling for at least a six-month period prior to their release from confinement and for at least a six-month period thereafter;

(2) not more than one hundred such volunteers are employed pursuant to this section during the fiscal year ending June 30, 1968, and not more than one hundred and fifty such volunteers are so employed during each of the two succeeding fiscal years;

(3) the Commissioner of Education furnishes, on a reimbursable basis, for the purpose of this section, members of the Teacher Corps who have been recruited and trained by one or more institutions of higher education; and

(4) not more than forty such members are furnished pursuant to this section during the fiscal year ending June 30, 1968, not more than sixty such members are so furnished during each of the two succeeding fiscal years.

(b) Members of the Teacher Corps enrolled for purposes of this section, who are not experienced teachers, shall be compensated at the rate of $75 per week plus $15 per week for each dependent. Such members who are experienced teachers shall be compensated at a rate to be fixed by the Commissioner of Education. Assignment of members of the Teacher Corps pursuant to this section shall be without regard to the provisions of section 1103(c) of Title 20. (Pub. L. 88–452, title VIII, § 822, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 724.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

PART C.—GENERAL PROVISIONS

§ 2994. Coordination with other programs.

The Director shall take necessary steps to coordinate volunteer programs authorized under this subchapter with one another, with community action programs, and with other related Federal, State, local, and national programs. These steps shall include, to the extent feasible, actions to promote service by volunteers or former volunteers in the full-time programs authorized under part A of this subchapter in providing necessary support to programs under part B of this subchapter, and actions to encourage persons serving as part-time or short-term volunteers to make commitment under part A of this subchapter as regular or associate full-time volunteers. The Director shall also consult with the heads of other Federal, State, local, and national agencies responsible for programs related to the purpose of this chapter with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of part-time volunteers serving pursuant to this part. (Pub. L. 88–452, title VIII, § 831, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 725.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2994a. Participation of older persons.

In carrying out this subchapter, the Director shall take necessary steps, including the development of special projects where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under this subchapter and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteers services to older persons, including special projects, to assure that they are served in proportion to their need. (Pub. L. 88–452, title VIII, § 832, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 725.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2994b. Application of Federal law.

(a) Except as provided in section 8332 of Title 5, and subsections (b) and (c) of this section and in section 8143(b) of Title 5, volunteers under this subchapter shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal employment.

(b) Individuals who receive either a living allowance or a stipend under part A of this subchapter shall, with respect to such services or training, (1) be deemed, for the purposes of subchapter III of chapter 73 of Title 5, persons employed in the executive branch of the Federal Government, and (2) be deemed Federal employees to the same extent as enrollees of the Job Corps under section 2727(a) (1) and (3) of this title.

(c) Any period of service of a volunteer under Part A of this subchapter shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 1092(a)(1) of Title 22, and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided,* That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(Pub. L. 88–452, title VIII, § 833 as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, and amended Pub. L. 90–623, § 5(b), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 91–177, title I, § 112(b), Dec. 30, 1969, 83 Stat. 832.)

REFERENCES IN TEXT

The Foreign Service Act of 1946, referred to in subsec. (c), is act Aug. 13, 1946 ch. 957, 60 Stat. 999, which is classified principally to section 801 et seq. of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–177, § 112(b)(1), inserted references to section 8332 of Title 5 and subsec. (c) of this section.

Subsec. (c). Pub. L. 91–177, § 112(b)(2), added subsec. (c).

1968—Subsec. (a). Pub. L. 90–623, § 5(b)(1), inserted reference to section 8143(b) of Title 5.

Subsec. (b). Pub. L. 90–623, § 5(b)(2), substituted "enrollees of the Job Corps under section 2727(a) (1) and (3) of this title" for "enrollees of the Job Corps under section 2727(a) (1), (2), and (3) of this title, except that for purposes of the computation described in section 2727(a)(2)(B) of this title the monthly pay of a volunteer shall be deemed to be that received under the entrance salary for GS–7 under section 5332 of Title 5."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 112(c) of Pub. L. 91–177 provided that: "The amendments made by subsections (a) and (b) of this section [amending this section and section 8332 of Title 5, Government Organization and Employees] shall be effective as to all former volunteers employed by the United States Government on or after the effective date of this Act [Dec. 30, 1969]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

EX. ORD. NO. 11561. DELEGATION OF AUTHORITY

Ex. Ord. No. 11561, Sept. 25, 1970, 35 F.R. 14981, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, the authority conferred upon the President by that portion of section 833(c)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b (c)(2)) which reads "except as otherwise determined by the President" is hereby delegated as follows: (1) To the Civil Service Commission to the extent that such authority is with respect to the laws administered by the Commission, and (2) to the Secretary of State to the extent that such authority is with respect to the Foreign Service Act of 1946, as amended [section 801 et seq. of Title 22, Foreign Relations and Intercourse].

§ 2994c. Special limitations.

(a) The Director shall prescribe regulations to assure that service under this subchapter is limited to activities which would not otherwise be performed and which will not result in the displacement of employed workers or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this subchapter, shall be furnished at the lowest possible cost consistent with the effective operations of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(e) Persons serving as volunteers under this subchapter shall provide such information concerning their qualifications, including their ability to perform their assigned tasks and their integrity, as the Director shall prescribe and shall be subject to such procedures, for selection and approval as the Director may require. The Director may fix such special procedures for the selection and approval of low-income residents of the area to be served by a program who wish to become volunteers as he determines will contribute to carrying out the purposes of this subchapter. (Pub. L. 88–452, title VIII, § 834, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 726.)

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

§ 2994d. Duration of program.

The Director shall carry out the programs provided for in this subchapter during the fiscal year ending June 30, 1967, and the five succeeding fiscal years. For each such fiscal year only such sums may be appropriated as the Congress may authorize by law. (Pub. L. 88–452, title VIII, § 835, as added Pub. L. 90–222, title I, § 110, Dec. 23, 1967, 81 Stat. 726, and amended Pub. L. 97–177, title I, § 101(b), Dec. 30, 1969, 83 Stat. 827.)

AMENDMENTS

1969—Pub. L. 91–177 substituted "five" for "three".

EFFECTIVE DATE

Section effective on Dec. 23, 1967, see section 401 of Pub. L. 90–222, set out as a note under section 2711 of this title.

Chapter 35.—PROGRAMS FOR OLDER AMERICANS

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SUBCHAPTER I.—DECLARATION OF OBJECTIVES AND DEFINITIONS

§ 3001. Congressional declaration of objectives.

The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States and of the several States and their political subdivisions to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) Suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

(4) Full restorative services for those who require institutional care.

(5) Opportunity for employment with no discriminatory personnel practices because of age.

(6) Retirement in health, honor, dignity—after years of contribution to the economy.

(7) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.

(8) Efficient community services which provide social assistance in a coordinated manner and which are readily available when needed.

(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

(Pub. L. 89–73, title I, § 101, July 14, 1965, 79 Stat. 219.)

SHORT TITLE

Section 1 of Pub. L. 89–73 provided that Pub. L. 89–73, which enacted this chapter, may be cited as the "Older Americans Act of 1965".

EX. ORD. NO. 11022. PRESIDENT'S COUNCIL ON AGING

Ex. Ord. No. 11022, May 14, 1962, 27 F.R. 4659, as amended by Ex. Ord. No. 11376, Oct. 17, 1967, 32 F.R. 14545, provided:

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the President's Council on Aging (hereinafter referred to as the "Council").

(b) The Council shall be composed of the Secretary of Health, Education, and Welfare, who shall be Chairman, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Director of the Office of Economic Opportunity.

(c) The Chairman of the Council shall invite the head of any other Federal department or agency to attend any meeting of the Council at which any matter within or affecting the area of responsibility of such department or agency is considered and to be a temporary member with respect to such matter.

SEC. 2. The Council shall:

(a) Maintain a continuing study of the overall responsibilities of the Federal Government with respect to the problems of the aging and make recommendations to the President concerning policies and programs required to meet Federal responsibilities, particularly on matters which do not fall within the jurisdiction of a single agency.

(b) Identify matters which require coordinated action by two or more Federal agencies and make appropriate arrangements for joint or coordinated action, including, as appropriate, conferences, joint studies, and the development of recommendations to the President.

(c) Promote the sharing and dissemination of information on the needs of the aging and policies and programs relating to the aging, among Federal departments and agencies and between them and State, local, or private agencies and organizations having functions or interests in fields relating to the problems of the aging.

(d) Prepare an annual consolidated report to the President concerning the activities of the Council and the several Federal departments and agencies having programs relating to the aging.

SEC. 3. (a) Consonant with law, each department or agency represented on the Council shall, as may be necessary for the effectuation of the purpose of this order, furnish assistance to the Council in accordance with Section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

(b) Other Federal departments and agencies are also authorized and directed, to the extent not inconsistent with law, to cooperate with the Council and to furnish it such information and assistance as it may find necessary in the performance of its functions.

SEC. 4. The Federal Council on Aging, established by a letter from the President to the Secretary of Health, Education, and Welfare, dated March 7, 1959, is hereby abolished and that letter is hereby superseded.

JOHN F. KENNEDY.

§ 3002. Definitions.

For the purposes of this chapter—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) The term "Commissioner" means, unless the context otherwise requires, the Commissioner of the Administration on Aging.

(3) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(Pub. L. 89–73, title I, § 102, July 14, 1965, 79 Stat. 219; Pub. L. 90–42, § 5(a), July 1, 1967, 81 Stat. 107; Pub. L. 91–69, § 10(a), Sept. 17, 1969, 83 Stat. 114.)

AMENDMENTS

1969—Par. (3), Pub. L. 91–69 enlarged the term "State" to include the Trust Territory of the Pacific Islands.

1967—Par. (2). Pub. L. 90–42, § 5(a)(1), added ", unless the context otherwise requires," following "means".

Par. (4). Pub. L. 90–42, § 5(a)(2), enlarged the term nonprofit institution or organization to include nonprofit agencies.

SHORT TITLE

Section 1 of Pub. L. 90–42 provided: "That this Act [enacting section 3043 of this title and amending this section and sections 3021, 3022, 3024, 3031, and 3051—3053 of this title] may be cited as the 'Older Americans Act Amendments of 1967'."

SUBCHAPTER II.—ADMINISTRATION ON AGING

§ 3011. Establishment of Administration; Commissioner on Aging.

(a) There is hereby established within the Department of Health, Education, and Welfare an Administration to be known as the Administration on Aging (hereinafter referred to as the "Administration").

(b) The Administration shall be under the direction of a Commissioner on Aging to be appointed by the President by and with the advice and consent of the Senate. (Pub. L. 89–73, title II, § 201, July 14, 1965, 79 Stat. 220.)

§ 3012. Functions of Administration.

It shall be the duty and function of the Administration to—

(1) serve as a clearinghouse for information related to problems of the aged and aging;

(2) assist the Secretary in all matters pertaining to problems of the aged and aging;

(3) administer the grants provided by this chapter;

(4) develop plans, conduct and arrange for research and demonstration programs in the field of aging;

(5) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

(6) prepare, publish, and disseminate educational materials dealing with the welfare of older persons;

(7) gather statistics in the field of aging which other Federal agencies are not collecting; and

(8) stimulate more effective use of existing resources and available services for the aged and aging.

(Pub. L. 89–73, title II, § 202, July 14, 1965, 79 Stat. 220.)

SUBCHAPTER III.—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3054 of this title.

§ 3021. Description of programs and activities; authorization of appropriations.

The Secretary shall carry out during the fiscal year ending June 30, 1966, and each of the six succeeding fiscal years, a program of grants to States in accordance with this subchapter. There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, $10,550,000 for the fiscal year ending June 30, 1968, $16,000,000 for the fiscal year ending June 30, 1969, $20,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $30,000,000 for the fiscal year ending June 30, 1972, for—

(1) community planning and coordination of programs for carrying out the purposes of this chapter;

(2) demonstrations of programs or activities which are particularly valuable in carrying out such purposes;

(3) training of special personnel needed to carry out such programs and activities; and

(4) establishment of new or expansion of existing programs to carry out such purposes, including establishment of new or expansion of existing centers providing recreational and other leisure time activities, and informational, health, welfare, counseling, and referral services for older persons and assisting such persons in providing volunteer community or civic services; except that no costs of construction, other than for minor alterations and repairs, shall be included in such establishment or expansion.

(Pub. L. 89–73, title III, § 301, July 14, 1965, 79 Stat. 220; Pub. L. 90–42, § 2(a), July 1, 1967, 81 Stat. 106; Pub. L. 91–69, § 2(a), Sept. 17, 1969, 83 Stat. 108.)

AMENDMENTS

1969—Pub. L. 91–69 substituted provisions which authorized the appropriation of $20,000,000 for the fiscal year ending June 30, 1970, $25,000,000, for the fiscal year ending June 30, 1971, and $30,000,000 for the fiscal year ending June 30, 1972, for provisions which authorized the appropriation of such sums as the Congress might authorize by law for the fiscal year ending June 30, 1970, and the two succeeding fiscal years.

1967—Pub. L. 90–42 extended from each of the succeeding four to each of the succeeding six fiscal years following the fiscal year ending June 30, 1966, the power of the Secretary to carry out a program of grants to the States, provided for specific appropriations of $10,550,000 and $16,000,000 for the fiscal years ending June 30, 1968 and 1969, respectively, and authorized Congress to appropriate funds for the fiscal year ending June 30, 1970, and the two succeeding fiscal years.

SHORT TITLE

Section 1 of Pub. L. 91–67 provided: "That this Act [which enacted sections 3024a, 3044–3044e, 3054, and 3055 of this title, amended this section, and sections 3002, 3022, 3023, 3024, 3031, 3041, and 3053 of this title, and enacted provisions set out as notes under this section, and sections 3022, 3023, 3024, and 3044 of this title] may be cited as the 'Older Americans Act Amendments of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3022 of this title.

§ 3022. Allotments to States.

(a) Amount.

(1) From the sum appropriated for a fiscal year under section 3021 of this title (A) the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands shall be allotted an amount equal to one-half of 1 per centum of such sum and (B) each other State shall be allotted an amount equal to 1 per centum of such sum.

(2) From the remainder of the sum so appropriated for a fiscal year each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged sixty-five or over in such State bears to the population aged sixty-five or over in all of the States, as determined by the Secretary on the basis of the most recent information available to him, including any relevant data furnished to him by the Department of Commerce.

(3) A State's allotment for a fiscal year under this section shall be equal to the sum of the amounts allotted to it under paragraphs (1) and (2).

(b) Reallotments.

The amount of any allotment to a State under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for grants with respect to projects in the State under this subchapter shall be reallotted from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so approved for sums in excess of those previously allotted to them under subsection (a) of this section and (2) will be able to use such excess amounts for projects approved by the State during the period for which the original allotment was available. Such reallotments shall be made on the basis of the State plans so approved, after taking into consideration the population aged sixty-five or over. Any amount so reallotted to a State shall be deemed part of its allotment under subsection (a) of this section.

(c) Availability for grants; percentage payments; duration of project support.

The allotment of any State under subsection (a) of this section for any fiscal year shall be available for grants to pay part of the cost of projects in such States described in section 3021 of this title and approved by such State (in accordance with its State plan approved under section 3023 of this title) prior to the end of such year or, in the case of allotments for the fiscal year ending June 30, 1966, prior to July 1, 1967. To the extent permitted by the State's allotment under this section such payments with respect to any project shall equal such percentage of the cost of any project as the State agency (designated or established pursuant to section 3023(a)(1) of this title) may provide but not in excess of 75 per centum of the cost of such project for the first year of the duration of such project, 60 per centum of such cost for the second year of such project, and 50 per centum of such cost for the third year and any subsequent year of such project. (Pub. L. 89–73, title III, § 302, July 14, 1965, 79 Stat. 221; Pub. L. 90–42, §§ 2(b), 5(g), July 1, 1967, 81 Stat. 107, 108; Pub. L. 91–69, §§ 3(a), 4(d), 6, 10(b), Sept. 17, 1969, 83 Stat. 108, 110, 114.)

AMENDMENTS

1969—Subsec. (a)(1). Pub. L. 91–69, § 10(b), provided for an allotment for the Trust Territory of the Pacific Islands.

Subsec. (a)(3). Pub. L. 91–69, § 4(d)(1), substituted "this section" for "this subchapter".

Subsec. (b). Pub. L. 91–69, §§ 4(d)(2), 6, substituted "for grants with respect to projects in the State under this subchapter" for "for carrying out the State plan (if any) approved under this subchapter", and "the Secretary determines will" for "the State notifies the Secretary will".

Subsec. (c). Pub. 91–69, § 3(a), added "such percentage of the cost of any project as the State agency (designated or established pursuant to section 3023 (a)(1) of this title) may provide but not in excess of" following "any project shall equal", extended to beyond the third year the period during which Federal financial support could be provided for any such State project, and struck out the provisions decreasing Federal payments under certain specified conditions and the time limitation for the making of grants under this subchapter.

1967—Subsec. (b). Pub. L. 90–42, § 5(g), substituted "shall be reallotted" for "shall be available for reallotment".

Subsec. (c). Pub. L. 90–42, § 2(b), substituted "June 30, 1974" for "June 30, 1972".

EFFECTIVE DATE OF 1969 AMENDMENT

Section 3(a) of Pub. L. 91–69 provided in part that the amendment to subsec. (c) of this section by section 3(a) of Pub. L. 91–69 shall be effective with respect to appropriations for fiscal years beginning after June 30, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3024 of this title.

§ 3023. State plans.

(a) Approval by Secretary; contents; notice and hearing prior to disapproval.

The Secretary shall approve a State plan for purposes of this subchapter which—

(1) establishes or designates a single State agency as the sole agency for administering or supervising the administration of the plan, which

agency shall be the agency primarily responsible for coordination of State programs and activities related to the purposes of this chapter;

(2) provides for such financial participation by the State or communities with respect to activities and projects under the plan as the Secretary may by regulation prescribe in order to assure continuation of desirable activities and projects;

(3) provides for development of programs and activities for carrying out the purposes of this chapter, including the furnishing of consultative, technical, or information services to public or nonprofit private agencies and organizations engaged in activities relating to the special problems or welfare of older persons;

(4) provides for statewide planning, coordination, and evaluation of programs and activities related to the purposes of this chapter in accordance with criteria established by the Secretary after consultation with representatives of the State agencies established or designated as provided in clause (1) of this subsection;

(5) provides for consultation with and utilization, pursuant to agreement with the head thereof, of the services and facilities of appropriate State or local public or nonprofit private agencies and organizations in the administration of the plan and in the development of such programs and activities;

(6) provides such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan;

(7) sets forth principles for determining the priority of projects in the State, and provides for approval of such projects in the order determined by application of such principles;

(8) provides for approval of projects of only public or nonprofit private agencies or organizations and for an opportunity for a hearing before the State agency for any applicant whose application for approval of a project is denied; and

(9) provides that the State agency will make such reports to the Secretary, in such form and containing such information, as may reasonably be necessary to enable him to perform his functions under this subchapter and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

The Secretary shall not finally disapprove any State plan, or any modification thereof submitted under this section without first affording the State reasonable notice and opportunity for a hearing.

(b) Noncompliance; cancellation of payments.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of a State plan approved under subsection (a) of this section, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of subsection (a) of this section, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments will be made to the State under this subchapter (or, in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State under this subchapter (or payments shall be limited to projects under or portions of the State plan not affected by such failure).

(c) Appeals; petitions; record; jurisdiction of courts of appeals; conclusiveness of findings; review by Supreme Court; stay of administrative action.

A State which is dissatisfied with a final action of the Secretary under subsection (a) or (b) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action. (Pub. L. 89–73, title III, § 303, July 14, 1965, 79 Stat. 222; Pub. L. 91–69, §§ 3(b), 4(a), Sept. 17, 1969, 83 Stat. 108.)

AMENDMENTS

1969—Subsec. (a)(2). Pub. L. 91–69, § 3(b), struck out "after termination of Federal financial support under this subchapter" following "desirable activities and projects".

Subsec. (a)(3). Pub. L. 91–69, § 4(a), struck out ", and for coordinating the activities of such agencies and organizations to the extent feasible" following "welfare of older persons".

Subsec. (a)(4). Pub. L. 91-69, § 4(a), added subsec. (a)(4). Former subsec. (a)(4) was redesignated as (a)(5).

Subsecs. (a)(5)—(9). Pub. L. 91-69, § 4(a), redesignated former subsecs. (a)(4)—(8) as (a)(5)—(9).

EFFECTIVE DATE OF 1969 AMENDMENT

Sections 3(b) and 4(a) of Pub. L. 91-69 provided in part that the amendments to subsec. (a)(2) and subsecs. (a)(3)—(9) of this section by sections 3(b) and 4(a) of Pub. L. 91-69, respectively, shall be effective with respect to appropriations for fiscal years beginning after June 30, 1969.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Health, Education, and Welfare under subsec. (a)(6) of this section transferred to United States Civil Service Commission, see section 4728(a)(3)(B) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3022, 3024, 3024a, 3032, 3042, 3044, 3044c of this title.

§ 3024. Planning, coordination, and evaluation and administration of State plans.

(a) Authorization of appropriations; amount of payment; availability of unexpended funds.

There are authorized to be appropriated $5,000,000 each for the fiscal year ending June 30, 1970, and the next two fiscal years for making grants to each State, which has a State plan approved under this subchapter, to pay such percentage, not in excess of 75 per centum, as the State agency (established or designated as provided in section 2023(a)(1) of this title) may provide, of the costs of planning, coordinating, and evaluating programs and activities related to the purposes of this chapter and of administering the State plan approved under this subchapter. Funds appropriated pursuant to the preceding sentence for the fiscal years ending June 30, 1970, and June 30, 1971, but not expended because a State did not have authority under State law to expend such funds, as determined by the Secretary pursuant to paragraph (4) of subsection (b) of this section, shall remain available as provided in such paragraph.

(b) Amount of allotment; determination of additional amount; adjustments; minimum amount; availability of unexpended amount.

(1) From the sum appropriated for a fiscal year under subsection (a) of this section, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa shall be allotted an amount equal to one-half of 1 per centum of such sum or $25,000, whichever is greater, and each other State shall be allotted an amount equal to 1 per centum of such sum.

(2) From the remainder of the sum so appropriated for a fiscal year each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged sixty-five or over in such State bears to the population aged sixty-five or over in all of the States, as determined by the Secretary on the basis of the most recent information available to him, including any relevant data furnished to him by the Department of Commerce.

(3) A State's allotment for a fiscal year under this section shall be equal to the sum of the amounts allotted to it under paragraphs (1) and (2); except that if such sum is for any State, other than the Virgin Island, Guam, the Trust Territory of the Pacific Islands, and American Samoa, less than $75,000 it shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing such sum for each of the remaining States (except the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa), but with such adjustments as may be necessary to prevent such sum for any of such remaining States from being reduced to less than $75,000.

(4) In any case in which a State does not have authority under State law to expend the full amount of its allotment under this subsection in the fiscal year ending June 30, 1970, the amount of such allotment which the Secretary determines the State did not have such authority to expend during a part of that fiscal year shall remain available to such State until June 30, 1971, subject to reallotment after June 30, 1970, in accordance with the provisions of subsection (c) of this section, except as provided by the following sentence. In any case in which a State does not have authority under State law to expend the full amount of its allotment under this subsection, including any amount available pursuant to the preceding sentence, in the fiscal year ending June 30, 1971, the amount of such allotment which the Secretary determines the State did not have such authority to expend during a part of that fiscal year shall remain available to such State until June 30, 1972, subject to reallotment after June 30, 1971, in accordance with the provisions of subsection (c) of this section.

(c) Reallotments to other States.

The amount of any allotment to a State under subsection (b) of this section for any fiscal year which the Secretary determines will not be required (i) for meeting the costs in such State referred to in subsection (a) of this section and (ii) for the purposes set forth in paragraph (4) of subsection (b) of this section shall be reallotted from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in meeting the costs referred to in subsection (a) of this section for sums in excess of those previously allotted to them under subsection (b) of this section and (2) will be able to use such excess amounts for meeting such costs during any period for which the allotment is available. Such reallotments shall be made on the basis of such need and ability, after taking into consideration the population aged sixty-five or over. Any amount so reallotted to a State shall be deemed part of its allotment under subsection (b) of this section.

(d) Minimum State expenditure of funds.

The allotment of any State under subsection (b) of this section for any fiscal year shall be available for payments pursuant to this section to State agencies which have provided reasonable assurance that there will be expended for the purposes for which such payments are made, for the year for which such payments are made and from funds from State sources, not less than the amount expended for such purposes from such funds for the fiscal year ending June 30, 1969. (Pub. L. 89-73, title III, § 304, July 14, 1965, 79 Stat. 223; Pub. L. 90-42, § 3, July 1, 1967, 81

Stat. 107; Pub. L. 91–69, § 4(b), Sept. 17, 1969, 83 Stat. 108.)

AMENDMENTS

1969—Pub. L. 91–69 redesignated former provisions as subsec. (a), and, as so redesignated, authorized the appropriation of $5,000,000 each for the fiscal year ending June 30, 1970, and the next two fiscal years for making grants to each State, which has an approved State plan, to pay not more than 75 per centum of the costs of planning, coordinating, and evaluating programs and activities related to the purposes of this chapter and authorized the continuing availability of unexpended funds so appropriated, and added subsecs. (b)—(d).

1967—Pub. L. 90–42 substituted "$25,000" for "$15,000".

EFFECTIVE DATE OF 1969 AMENDMENT

Section 4(b) of Pub. L. 91–69 provided in part that the amendments to this section by section 4(b) of Pub. L. 91–69 shall be effective for fiscal years beginning after June 30, 1969.

§ 3024a. Areawide model projects; grants to or contracts with State agencies; amount; purposes of projects; authorization of appropriations.

(a) The Secretary is authorized, upon such terms as he may deem appropriate, to make grants to or contracts with State agencies established or designated as provided in section 3023(a)(1) of this title to pay not to exceed 75 per centum of the cost of the development and operation of statewide, regional, metropolitan area, county, city, or other areawide model projects for carrying out the purposes of this subchapter, to be conducted by such State agencies (directly or through contract real arrangements). Such projects shall provide services for, or create opportunities for, older persons, and shall be in fields of service and for categories of older persons determined in accordance with regulations prescribed by the Secretary after consultation with representatives of such State agencies.

(b) There are authorized to be appropriated to carry out this section $5,000,000 for the fiscal year ending June 30, 1970, and $10,000,000 each for the fiscal year ending June 30, 1971, and the fiscal year ending June 30, 1972. (Pub. L. 89–73, title III, § 305, as added Pub. L. 91–69, § 5, Sept. 17, 1969, 83 Stat. 110.)

§ 3025. Payments of grants; adjustments; advances or reimbursement; installments.

Payments under this subchapter may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Secretary may determine. (Pub. L. 89–73, title III, § 306, formerly § 305, July 14, 1965, 79 Stat. 224, renumbered Pub. L. 91–69, § 5, Sept. 17, 1969, 83 Stat. 110.)

SUBCHAPTER IV.—RESEARCH AND DEVELOPMENT PROJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3053 of this title.

§ 3031. Description of activities.

The Secretary is authorized to carry out the purposes of this chapter through grants to any public or nonprofit private agency, organization, or institution and contracts with any agency, organization, or institution or with any individual—

(a) to study current patterns and conditions of living of older persons and identify factors which are beneficial or detrimental to the wholesome and meaningful living of such persons;

(b) to develop or demonstrate new approaches, techniques, and methods (including multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living for older persons;

(c) to develop or demonstrate approaches, methods, and techniques for achieving or improving coordination of community services for older persons;

(d) to evaluate these approaches, techniques, and methods, as well as others which may assist older persons to enjoy wholesome and meaningful living and to continue to contribute to the strength and welfare of our Nation;

(e) to collect and disseminate, through publications and other appropriate means, information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this subchapter; or

(f) to conduct conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this subchapter.

(Pub. L. 89–73, title IV, § 401, July 14, 1965, 79 Stat. 224; Pub. L. 90–42, § 5(b), July 1, 1967, 81 Stat. 107; Pub. L. 91–69, § 7, Sept. 17, 1969, 83 Stat. 111.)

AMENDMENTS

1969—Pub. L. 91–69 substituted "and agency" for "any such agency" in the introductory material, and added cls. (e) and (f).

1967—Pub. L. 90–42 substituted "multipurpose centers" for "multipurpose activity centers" in cl. (b).

§ 3032. Payments of grants.

(a) Contribution by recipients.

To the extent he deems it appropriate, the Secretary shall require the recipient of any grant or contract under this subchapter to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Adjustments; advances or reimbursement; installments; conditions.

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(c) Consultation of Secretary with State agency prior to making grants or contracts.

The Secretary shall make no grant or contract under this subchapter in any State which has established or designated a State agency for purposes of section 3023(a)(1) of this title unless the Secretary has consulted with such State agency regarding such grant or contract. (Pub. L. 89–73, title IV, § 402, July 14, 1965, 79 Stat. 224.)

SUBCHAPTER V.—TRAINING PROJECTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3053 of this title.

§ 3041. Project grants and contracts; training programs; studies; preparation and dissemination of materials; conferences.

The Secretary is authorized to make grants to any public or nonprofit private agency, organization, or institution, and contracts with any agency, organization, or institution, for—

(a) the specialized training of persons employed or preparing for employment in carrying out programs related to the purposes of this chapter and the development of curriculums for such training;

(b) the conduct of studies of the need for trained personnel to carry out such programs;

(c) the preparation and dissemination of materials, including audiovisual materials and printed materials, for use in recruitment and training of such personnel;

(d) the conduct of conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this subchapter; and

(e) the publication and distribution of information concerning studies, findings, and other materials developed in connection with activities under this subchapter.

(Pub. L. 89–73, title V, § 501, July 14, 1965, 79 Stat. 224; Pub. L. 91–69, § 8, Sept. 17, 1969, 83 Stat. 111.)

AMENDMENTS

1969—Pub. L. 91–69 redesignated former provisions as cl. (a), and, as so redesignated, added the provision authorizing the Secretary to make grants to and contracts with any agency, etc., and to develop curriculums for the training of personnel, and added cls. (b)—(e).

§ 3042. Payments of grants.

(a) Contribution by recipients.

To the extent he deems it appropriate, the Secretary shall require the recipient of any grant or contract under this subchapter to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Adjustments; advances or reimbursement; installments; conditions.

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(c) Consultation of Secretary with State agency prior to making grants or contracts.

The Secretary shall make no grant or contract under this subchapter in any State which has established or designated a State agency for purposes of section 3023(a)(1) of this title unless the Secretary has consulted with such State agency regarding such grant or contract. (Pub. L. 89–73, title V. § 502, July 14, 1965, 79 Stat. 225.)

§ 3043. Study of need for trained personnel; consultations with other government and private agencies and organizations.

CODIFICATION

Section, Pub. L. 89–73, title V, § 503, as added Pub. L. 90–42, § 6, July 1, 1967, 81 Stat. 108, which authorized a study of the need for trained personnel to carry out the programs for older Americans and directed that the report and recommendations from such study be submitted to the President and Congress not later than Mar. 31, 1968, has been omitted as executed.

SUBCHAPTER VI.—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3054 of this title.

PART A.—RETIRED SENIOR VOLUNTEER PROGRAM

§ 3044. Grants and contracts for volunteer service projects.

(a) Approval of programs; rules and regulations.

In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Secretary is authorized to make grants to State agencies (established or designated pursuant to section 3023(a)(1) of this title) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines in accordance with such regulations as he may prescribe that—

(1) volunteers shall not be compensated for other than transportation, meals, and other out-of-pocket expenses incident to their services;

(2) only individuals aged sixty or over will provide services in the program (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (a) on publicly owned and operated facilities or projects, or (b) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program will not result in the displacement of employed workers or impair existing contracts for services;

(4) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and provides for the payment of the reasonable expenses of trainees;

(5) the program is being established and will be carried out with the advice of persons competent in the field of service being staffed, and of persons with interest in and knowledge of the needs of older persons; and

(6) the program is coordinated with other related Federal and State programs.

(b) Method of payment.

Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made

overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Secretary may determine.

(c) Conditions upon award of grant or contract.

The Secretary shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 3023(a)(1) of this title, such agency is the recipient of the award or such agency has had not less than sixty days in which to review the project application and make recommendations thereon. (Pub. L. 89–73, title VI, § 601, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111.)

INCLUSION OF PAYMENTS TO INDIVIDUALS PURSUANT TO PROJECTS UNDER NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS IN COMPUTATION OF AMOUNT OF PUBLIC ASSISTANCE

Section 11 of Pub. L. 91–69 provided that: "For the purposes of section 701 of the Economic Opportunity Act of 1964 [section 2981 of this title], payments made to or on behalf of any person under a project (of the kind formerly carried on under the Economic Opportunity Act of 1964 [section 2701 et seq. of this title] assisted under the title VI of the Older Americans Act of 1965, added thereto by this Act [this subchapter], shall be deemed to be payments made to or on behalf of such person under title I of the Economic Opportunity Act of 1964 [section 2711 et seq. of this title]".

§ 3044a. Authorization of appropriations.

There are authorized to be appropriated, for grants or contracts under this part, $5,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 30, 1971, and $15,000,000 for the fiscal year ending June 30, 1972. (Pub. L. 89–73, title VI, § 603, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 112.)

PART B.—FOSTER GRANDPARENT PROGRAM

§ 3044b. Grants and contracts for Foster Grandparent projects; amount; method of payment.

(a) The Secretary is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay not to exceed 90 per centum of the cost of the development and operation of projects designed to provide opportunities for low-income persons aged sixty or over to render supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as "Foster Grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

(b) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Secretary may determine. (Pub. L. 89–73, title VI, § 611, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 112.)

§ 3044c. Conditions upon award of grant or contract; community action agency.

(a) (1) In administering this part the Secretary shall—

(A) assure that the new participants in any project are older persons of low income who are no longer in the regular work force;

(B) award a grant or contract only if he determines that the project will not result in the displacement of employed workers or impair existing contracts for services.

(2) The Secretary shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency (established or designated under section 3023(a)(1) of this title) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which subparagraph (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency.

(3) The Secretary shall not award a grant or contract under this subchapter which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which subparagraph (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 3023(a)(1) of this title, such agency has had not less than 45 days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section, means a community action agency established under title II of the Economic Opportunity Act of 1964. (Pub. L. 89–73, title VI, § 612, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 113.)

REFERENCES IN TEXT

Title II of the Economic Opportunity Act of 1964, referred to in subsec. (b), is title II of Pub.L. 88–452, Aug. 20, 1964, 78 Stat. 516, which is classified to section 2781 et seq. of this title.

§ 3044d. Interagency cooperation.

In administering this part, the Secretary shall consult with the Office of Economic Opportunity, the

Department of Labor, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Secretary in disseminating information about the availability of assistance under this part and in promoting the identification and interest of low-income older persons whose services may be utilized in projects under this part. (Pub. L. 89–73, title VI, § 613, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 113.)

§ 3044e. Authorization of appropriations.

There are authorized to be appropriated for grants or contracts under this part, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for the fiscal year ending June 30, 1972. (Pub. L. 89–73, title VI, § 614, as added Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 114.)

SUBCHAPTER VII.—GENERAL PROVISIONS

§ 3051. Advisory Committees.

(a) Advisory Committee on Older Americans; establishment; membership; term of office.

(1) For the purpose of advising the Secretary of Health, Education, and Welfare on matters bearing on his responsibilities under this chapter and related activities of his Department, there is hereby established in the Department of Health, Education, and Welfare an Advisory Committee on Older Americans, consisting of the Commissioner, who shall be Chairman, and fifteen persons not otherwise in the regular full-time employ of the United States, appointed by the Secretary without regard to the civil service laws. Members shall be selected from among persons who are experienced in or have demonstrated particular interest in special problems of the aging.

(2) Each member of the Committee shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first taking office shall expire, as designated by the Secretary of Health, Education, and Welfare at the time of appointment, five at the end of the first year, five at the end of the second year, and five at the end of the third year after the date of appointment.

(b) Technical advisory committees; appointment.

The Secretary of Health, Education, and Welfare is authorized to appoint, without regard to the civil service laws, such technical advisory committees as he deems appropriate for advising him in carrying out his functions under this chapter.

(c) Compensation and travel expenses.

Members of the Advisory Committee or of any technical advisory committee appointed under this section, who are not regular full-time employees of the United States, shall, while attending meetings or conferences of such committee or otherwise engaged on business of such committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b–2 of Title 5 for persons in the Government service employed intermittently.

(d) Technical and clerical assistance for Advisory Committee.

The Commissioner is authorized to furnish to the Advisory Committee such technical assistance, and to make available to it such secretarial, clerical, and other assistance and such pertinent data available to him, as the Committee may require to carry out its functions. (Pub. L. 89–73, title VII, § 701, formerly title VI, § 601, July 14, 1965, 79 Stat. 225; Pub. L. 90–42, § 5 (c), (d), July 1, 1967, 81 Stat. 107; renumbered Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (a) (1) and (b), are classified generally to Title 5, Government Organization and Employees.

Section 73b–2 of Title 5, referred to in subsec. (c), was repealed in the general revision of Title 5, and the provisions are now covered by section 5703 of Title 5, Government Organization and Employees.

AMENDMENTS

1967—Subsec. (a) (1). Pub L. 90–42, § 5(c) (1), provided that members of the Advisory Committee on Older Americans shall not be in the regular full-time employ of the United States.

Subsec. (c). Pub. L. 90–42, § 5(c) (2), (3), increased the maximum per diem allowance of the members of the Advisory Committee from $75.00 to $100.00, and struck out the provision requiring that the allowance be fixed by the Secretary who appointed them.

Subsec. (d). Pub. L. 90–42, § 5(d), added subsec. (d).

§ 3052. Administration.

(a) In carrying out the purposes of this chapter, the Secretary is authorized to provide consultative services and technical assistance to public or nonprofit private agencies, organizations, and institutions; to provide short-term training and technical instruction; to conduct research and demonstrations; and to collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this chapter and to provide staff and other technical assistance to the President's Council on Aging.

(b) In administering his functions under this chapter, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit private agency or institution, in accordance with agreements between the Secretary and the head thereof, and to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement. (Pub. L. 89–73, title VII, § 702, formerly title VI, § 602, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, § 5 (e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered Pub. L. 91–69, § 9, Sept. 17, 1969, 83 Stat. 111.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–42, § 5 (e), (f), substituted "Secretary" for "Secretary of Health, Education, and Wel-

fare", and added provision authorizing the Secretary to provide staff and other technical assistance to the President's Council on Aging.

Subsec. (b). Pub. L. 90–42, § 5(f), substituted "Secretary" for "Secretary of Health, Education, and Welfare" and "Secretary concerned", and "his functions" for "their respective functions".

§ 3053. Authorization of appropriations.

The Secretary shall carry out subchapters IV and V of this chapter during the fiscal year ending June 30, 1966, and each of the six succeeding fiscal years. There are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1966, $3,000,000 for the fiscal year ending June 30, 1967, $6,400,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $12,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, and $20,000,000 for the fiscal year ending June 30, 1972. (Pub. L. 89–73, title VII, § 703, formerly title VI, § 603, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, § 4, July 1, 1967, 81 Stat. 107; renumbered and amended Pub. L. 91–69, §§ 2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111.)

AMENDMENTS

1969—Pub. L. 91–69, § 2(b), substituted provisions which authorized the appropriation of $12,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, and $20,000,000 for the fiscal year ending June 30, 1972, for provisions which authorized the appropriation of such sums as the Congress might authorize by law for the fiscal year ending June 30, 1970, and the two succeeding fiscal years.

1967—Pub. L. 90–42 extended the power of the Secretary to carry out the purposes of subchapters IV and V of this chapter from each of the succeeding four to each of the succeeding six fiscal years following the fiscal year ending June 30, 1966, provided for specific appropriations of $6,400,000 and $10,000,000 for the fiscal years ending June 30, 1968 and 1969 respectively, and authorized Congress to appropriate funds for the fiscal year ending June 30, 1970, and the two succeeding fiscal years.

SECTION REFFERED TO IN OTHER SECTIONS

This section is referred to in section 3054 of this title.

§ 3054. Evaluation of programs.

Such portion of any appropriation under subchapter III or VI of this chapter or section 3053 of this title for any fiscal year ending after June 30, 1969, as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the programs authorized by this chapter and, in the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly. (Pub. L. 89–73, title VII, § 704, as added Pub. L. 91–69, § 12, Sept. 17, 1969, 83 Stat. 114.)

§ 3055. Joint funding of projects.

Pursuant to regulations prescribed by the President, where funds are advanced for a single project by more than one Federal agency to an agency, organization, institution, or person assisted under this chapter, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. (Pub. L. 89–73, title VII, § 705, as added Pub. L. 91–69, § 12, Sept. 17, 1969, 83 Stat. 114.)

Chapter 36.—COMPENSATION OF CONDEMNEES IN DEVELOPMENT PROGRAMS

Sec.
3071. Definitions.
3072. Acquisition of realty by eminent domain.
3073. Financing of payments in eminent domain when amount is in dispute.
3074. Relocation payments under federally assisted development programs.

§ 3071. Definitions.

For the purposes of this chapter—

(1) the term "development program" means any program established by or conducted under any of the following provisions of law:

(A) the United States Housing Act of 1937;

(B) title I of the Housing Act of 1949;

(C) the Urban Mass Transportation Act of 1964;

(D) title II of the Housing Amendments of 1955;

(E) title VII of the Housing Act of 1961; and

(F) title VII of the Housing and Urban Development Act of 1965;

(2) the term "Federal assistance" means a grant, loan, contract of guaranty, annual contribution, or other assistance provided by the United States;

(3) the term "applicant" means any public body or other agency authorized to receive Federal assistance under a development program;

(4) the term "real property" means any land, or any interest in land, and (A) any building, structure, or other improvements embedded in or affixed to land, and any article so affixed or attached to such building, structure, or improvement as to be an essential or integral part thereof; (B) any article affixed or attached to such real property in such manner that it cannot be removed without material injury to itself or the real property; and (C) any article so designed, constructed, or specially adapted to the purpose for which such real property is used that (i) it is an essential accessory or part of such real property, (ii) it is not capable of use elsewhere, and (iii) it would lose substantially all its value if removed from the real property; and

(5) the term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 89–117, title IV, § 401, Aug. 10, 1965, 79 Stat. 485; Pub. L. 90–19, § 22(f), May 25, 1967, 81 Stat. 27.)

REPEAL

Provisions of section repealed by Pub. L. 91–646, title II, § 220(a)(8), title III, § 306, Jan. 2, 1971, 84 Stat. 1903, 1907, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State, but such sections completely applicable to

all States after July 1, 1972. Until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is classified to chapter 8 of this title.

Title I of the Housing Act of 1949 is classified to subchapter II of chapter 8A of this title.

The Urban Mass Transportation Act of 1964 is classified to chapter 21 of Title 49, Transportation.

Title II of the Housing Amendments of 1955 is classified to chapter 8B of this title.

Title VII of the Housing Act of 1961 is classified to chapter 8C of this title.

Title VII of the Housing and Urban Redevelopment Act of 1965 is classified to chapter 37 of this title.

CODIFICATION

"This chapter" in the original read "this title", and referred to title IV of the Housing and Urban Development Act of 1965. In addition to enacting this chapter, title IV of that Act also amended sections 1415 and 1465 of this title.

AMENDMENTS

1967—Par. (5). Pub. L. 90–19 substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and of agencies and officers thereof under this chapter incidental or necessary to the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employee.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by sections 220(a) and 306 of Pub. L. 91–646 as not affected by such repeal, see sections 220(b) and 306 in part of Pub. L. 91–646, set out as notes under sections 4621 and 4651 of this title.

§ 3072. Acquisition of realty by eminent domain.

As a condition of eligibility for Federal assistance pursuant to a development program, each applicant for such assistance shall satisfy the Secretary that the following policies will be followed in connection with the acquisition of real property by eminent domain in the course of such program—

(1) the applicant shall make every reasonable effort to acquire the real property by negotiated purchase;

(2) no owner shall be required to surrender possession of real property before the applicant pays to the owner (A) the agreed purchase price arrived at by negotiation, or (B) in any case where only the amount of the payment to the owner is in dispute, not less than 75 per centum of the appraised fair value of such property as approved by the applicant; and

(3) the construction or development of any public improvements shall be so scheduled that no person lawfully occupying the real property shall be required to surrender possession on account of such construction or development without at least 90 days' written notice from the applicant of the date on which such construction or development is scheduled to begin.

(Pub. L. 89–117, title IV, § 402, Aug. 10, 1965, 79 Stat. 485; Pub. L. 90–19, § 22(a), May 25, 1967, 81 Stat. 26.)

REPEAL

Provisions of section repealed by Pub. L. 91–646, title II, § 220(a)(8), title III, § 306, Jan. 2, 1971, 84 Stat. 1903, 1907, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State, but such sections completely applicable to all States after July 1, 1972. Until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator".

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and of agencies and officers thereof under this chapter incidental or necessary to the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by sections 220(a) and 306 of Pub. L. 91–646 as not affected by such repeal, see sections 220(b) and 306 in part of Pub. L. 91–646, set out as notes under sections 4621 and 4651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3073 of this title.

§ 3073. Financing of payments in eminent domain when amount is in dispute.

Notwithstanding any other provision of law, financial assistance under any federally assisted development program may include amounts necessary for financing, in the same manner that other costs of a project assisted under such program are financed, the payments described in paragraph (2)(B) of section 3072 of this title. (Pub. L. 89–117, title IV, § 403, Aug. 10, 1965, 79 Stat. 486.)

REPEAL

Provisions of section repealed by Pub. L. 91–646, title II, § 220(a)(8), title III, § 306, Jan. 2, 1971, 84 Stat. 1903, 1907, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State, but such sections completely applicable to all States after July 1, 1972. Until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and of agencies and officers thereof under this chapter incidental or necessary to the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by sections 220(a) and 306 of Pub. L. 91–646 as not affected by such repeal, see sections 220(b) and 306 in part of Pub. L. 91–646, set out as notes under sections 4621 and 4651 of this title.

§ 3074. Relocation payments under federally assisted development programs.

To the extent not otherwise authorized under any Federal law, financial assistance extended to an applicant under any federally assisted development program may include grants for relocation payments, as herein defined. Such grants may be in addition to other financial assistance under such federally assisted development programs, and may cover the full amount of such relocation payments. Any funds available for any such program may be used for such grants. The term "relocation payments" means payments by the applicant, to a displaced individual, family, business concern, or nonprofit organization, which are made on such terms and conditions and subject to such limitations (to the extent applicable, but not including the date of displacement) as are provided for relocation payments, at the time such payments are approved, by sections 1465 (b), (c), and (d) of this title with respect to projects assisted under subchapter II of chapter 8A of this title. Relocation payments authorized by this section shall be made subject to such rules and regulations as may be prescribed by the Secretary. (Pub. L. 89–117, title IV, § 404(a), Aug. 10, 1965, 79 Stat. 486; Pub. L. 90–19, § 22(a), May 25, 1967, 81 Stat. 26.)

REPEAL

Provisions of section repealed by Pub. L. 91–646, title II, § 220(a)(8), title III, § 306, Jan. 2, 1971, 84 Stat. 1903, 1907, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State, but such sections completely applicable to all States after July 1, 1972. Until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator".

EFFECTIVE DATE

Section 404(d) of Pub. L. 89–117 provided that: "Subsection (a) [adding this section] shall not be applicable with respect to any displacement occurring prior to the date of the enactment of this Act [Aug. 10, 1965] (or prior to March 4, 1965, in the case of the programs specified in subparagraphs (C) and (E) of section 401(1) [pars. (C) and (E) of section 3071(1) of this title])."

TRANSFER OF FUNCTIONS

Transfer to the Secretary of Transportation of functions of the Department of Housing and Urban Development and of the Secretary of Housing and Urban Development and of agencies and officers thereof under this chapter incidental or necessary to the performance of functions transferred by section 1(a)(1) of Reorg. Plan No. 2 of 1968, see section 1(a)(2) of Reorg. Plan No. 2 of 1968, eff. June 20, 1968, 33 F.R. 6965, 82 Stat. 1369, set out in the Appendix to Title 5, Government Organization and Employees.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by sections 220(a) and 306 of Pub. L. 91–646 as not affected by such repeal, see sections 220(b) and 306 in part of Pub. L. 91–646, set out as notes under sections 4621 and 4651 of this title.

Chapter 37.—COMMUNITY FACILITIES AND ADVANCE LAND ACQUISITION

Sec.
3101. Congressional declaration of purpose.
3102. Grants for basic water and sewer facilities.
(a) Authority to make grants for specific projects.
(b) Maximum amount of grants.
(c) Project requirements; need for facilities; growth needs of area; coordination of area-wide development.
(d) Job opportunities for unemployed or underemployed persons.
3103. Grants for neighborhood facilities.
(a) Authority to make grants for specific projects; qualifications of approved nonprofit organizations.
(b) Maximum amount of grants.
(c) Project requirements; need for facilities; comprehensive planning; accessibility to low- or moderate-income residents.
(d) Conversion of facility to other uses.
(e) Priority of projects designed primarily to benefit low-income families or further objectives of community action programs.
3104. Advance acquisition of land for public purposes.
(a) Authority to make grants.
(b) Maximum amount of grants.
(c) Utilization of land for public purpose within reasonable period of time.
(d) Diversion of land; repayment; interim use.
(e) Eligibility for other Federal loans or grant programs.
3105. Powers and duties of Secretary.
3106. Definitions.
3107. Labor standards.
3108. Authorization of appropriations.

§ 3101. Congressional declaration of purpose.

The purpose of this chapter is to assist and encourage the communities of the Nation fully to meet the needs of their citizens by making it possible, with Federal grant assistance, for their governmental bodies (1) to construct adequate basic water and sewer facilities needed to promote the efficient and orderly growth and development of our communities, (2) to construct neighborhood facilities needed to enable them to carry on programs of necessary social services, and (3) to acquire, in a planned and orderly fashion, land to be utilized in the future for public purposes. (Pub. L. 89–117, title VII, § 701, Aug. 10, 1965, 79 Stat. 489; Pub. L. 90–448, title VI, § 603(a), Aug. 1, 1968, 82 Stat. 533.)

AMENDMENTS

1968—Pub. L. 90–448, substituted "in the future for public purposes" for "in connection with the future construction of public works and facilities in cl. (3).

§ 3102. Grants for basic water and sewer facilities.

(a) Authority to make grants for specific projects.

The Secretary of Housing and Urban Development (hereinafter in this chapter referred to as the "Secretary") is authorized to make grants to local public bodies and agencies to finance specific projects for basic public water facilities (including works for the storage, treatment, purification, and distribution of water), and for basic public sewer facilities (other than "treatment works" as defined in the Federal Water Pollution Control Act): *Provided*, That no grant shall be made under this

section for any sewer facilities unless the Administrator of the Environmental Protection Agency certifies to the Secretary that any waste material carried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

(b) Maximum amount of grants.

The amount of any grant made under the authority of this section shall not exceed 50 per centum of the development cost of the project: *Provided,* That in the case of a community having a population of less than ten thousand, according to the most recent decennial census, which is situated within a metropolitan area, the Secretary may increase the amount of a grant for a basic public water or sewer facility assisted under this section to not more than 90 per centum of the development cost of such facility, if the community is unable to finance the construction of such facility without the increased grant authorized under this subsection, and if in such community (1) there does not exist a public or other adequate water or sewer facility which serves a substantial portion of the inhabitants of the community, and (2) the rate of unemployment is, and has been continuously for the preceding calendar year, 100 per centum above the national average: *And provided further,* That the limitations and restrictions contained in subsection (c) of this section shall not be applicable to any community applying for an increased grant under this subsection.

(c) Project requirements; need for facilities; growth needs of area; coordination of areawide development.

No grant shall be made under this section in connection with any project unless the Secretary determines that the project is necessary to provide adequate water or sewer facilities for, and will contribute to the improvement of the health or living standards of, the people in the community to be served, and that the project is (1) designed so that an adequate capacity will be available to serve the reasonably foreseeable growth needs of the area; (2) consistent with a program meeting criteria, established by the Secretary, for a unified or officially coordinated areawide water or sewer facilities system as part of the comprehensively planned development of the area, except that prior to October 1, 1971, grants may, in the discretion of the Secretary, be made under this section when such a program for an areawide water and sewer facilities system is under active preparation, although not yet completed, if the facility or facilities for which assistance is sought can reasonably be expected to be required as a part of such program, and there is urgent need for the facility or facilities; and (3) necessary to orderly community development.

(d) Job opportunities for unemployed or underemployed persons.

In the administration of this section the Secretary shall require that, to the greatest extent practicable, new job opportunities be provided for unemployed or underemployed persons in connection with projects the financing of which is assisted under this section.

(Pub. L. 89–117, title VII, § 702, Aug. 10, 1965, 79 Stat. 490; 1966 Reorg. Plan No. 2, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; Pub L 90–19, § 22(b), (g), May 25, 1967, 81 Stat. 26, 27; Pub. L. 90–448, title VI, § 604, Aug. 1, 1968, 82 Stat. 534; Pub. L. 91–152, title III, § 305(a), Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–431, § 3(c), Oct. 6, 1970, 84 Stat. 886; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (a), is classified to section 1151 et seq. of Title 33, Navigation and Navigable Waters. The definitions section of the Act is classified to section 1173 of Title 33.

AMENDMENTS

1970—Subsec. (c)(2). Pub. L. 91–431 substituted "October 1, 1971" for "October 1, 1970".

1969—Subsec. (c). Pub. L. 91–152 substituted "October 1, 1970" for "October 1, 1969".

1968—Subsec. (b). Pub. L. 90–448, § 604(b), included water facilities.

Subsec. (c). Pub. L. 90–448, § 604(a), substituted "October 1, 1969" for "July 1, 1968."

Subsec. (d). Pub. L. 90–448, § 604(c), added subsec. (d).

1967—Pub. L. 90–19, § 22(b), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)—(c) of this section.

Subsec. (a). Pub. L. 90–19, § 22(g), substituted "Secretary of Housing and Urban Development (hereinafter in this chapter referred to as the 'Secretary')" for "Housing and Home Finance Administrator (hereinafter in this chapter referred to as the 'Administrator')".

SHORT TITLE

Section 1 of Pub. L. 91–431 provided: "That this Act [amending this section and section 3108 of this title and enacting provisions set out as a note under section 3108 of this title] may be cited as the 'Emergency Community Facilities Act of 1970'."

TRANSFER OF FUNCTIONS

"Administrator of the Environmental Protection Agency" was substituted for "Secretary of the Interior" in subsec. (a) pursuant to 1970 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Water Quality Administration in the Department of the Interior and transferred to the Administrator of the Environmental Protection Agency all functions which had been transferred to the Secretary of the Interior from the Secretary of Health, Education, and Welfare by Reorg. Plan No. 2 of 1966.

Secretary of the Interior was substituted for Secretary of Health, Education, and Welfare in subsec. (a) of this section pursuant to section 1(h)(1) of 1966 Reorg. Plan No. 2, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608, set out in the Appendix to Title 5, Government Organization and Employees, which transferred the functions of the Secretary of Health, Education, and Welfare under subsec. (a) of this section to the Secretary of the Interior.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1855dd, 3107, 3108, 3914, 4483 of this title.

§ 3103. Grants for neighborhood facilities.

(a) Authority to make grants for specific projects; qualifications of approved nonprofit organizations.

In accordance with the provisions of this section, the Secretary is authorized to make grants to any local public body or agency to assist in financing specific projects for neighborhood facilities. Any such project may be undertaken by such body or agency directly or through a nonprofit organization approved by it: *Provided,* That no grant shall be provided under this section for any project to

be undertaken through a nonprofit organization unless the Secretary determines (1) that such organization has or will have the legal, financial, and technical capacity to carry out the project, and (2) that the public body or agency to which the grant is made will have satisfactory continuing control over the use of the proposed facilities.

(b) Maximum amount of grants.

The amount of any grant made under the authority of this section shall not exceed 66⅔ per centum of the development cost of the project for which the grant is made (or 75 per centum of such cost in the case of a project located in an area which at the time the grant is made is designated as a redevelopment area under the Area Redevelopment Act or any Act supplementary thereto).

(c) Project requirements; need for facilities; comprehensive planning; accessibility to low- or moderate-income residents.

No grant shall be made under this section for any project unless the Secretary determines that the project will provide a neighborhood facility which is (1) necessary for carrying out a program of health, recreational, social, or similar community service (including a community action program approved under subchapter II of chapter 34 of this title) in the area, (2) consistent with comprehensive planning for the development of the community, and (3) so located as to be available for use by a significant portion (or number in the case of large urban places) of the area's low- or moderate-income residents.

(d) Conversion of facility to other uses.

For a period of twenty years after a grant has been made under this section for a neighborhood facility, such facility shall not, without the approval of the Secretary, be converted to uses other than those proposed by the applicant in its application for a grant. The Secretary shall not approve any conversion in the use of such a neighborhood facility during such twenty-year period unless he finds that such conversion is in accordance with the then applicable program of health, recreational, social, or similar community services in the area and consistent with comprehensive planning for the development of the community in which the facility is located. In approving any such conversion, the Secretary may impose such additional conditions and requirements as he deems necessary.

(e) Priority of projects designed primarily to benefit low-income families or further objectives of community action programs.

The Secretary shall give priority to applications for projects designed primarily to benefit members of low-income families or otherwise substantially further the objectives of a community action program approved under subchapter II of chapter 34 of this title. (Pub. L. 89–117, title VII, § 703, Aug. 10, 1965, 79 Stat. 491; Pub. L. 90–19, § 22(b), May 25, 1967, 81 Stat. 26.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsec. (b), was Pub. L. 87–27, May 1, 1961, 75 Stat. 47, formerly classified to chapter 28 of this title, and was omitted from the Code as executed the provisions are now covered by this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (c)—(e) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3107, 3108 of this title.

§ 3104. Advance acquisition of land for public purposes.

(a) Authority to make grants.

In order to encourage and assist the timely acquisition of land planned to be utilized in the future for public purposes, the Secretary is authorized to make grants to States and local public bodies and agencies to assist in financing the acquisition of a fee simple estate or other interest in such land.

(b) Maximum amount of grants.

The amount of any grant made under this section shall not exceed the aggregate amount of reasonable interest charges on the loans or other financial obligations incurred to finance the acquisition of such land for a period not in excess of the lesser of (1) five years from the date of acquisition of such land or (2) the period of time between the date on which the land was acquired and the date its use began for the purpose for which it was acquired: *Provided,* That where all or any portion of the cost of such land is not financed through borrowings, the amount of the grant shall be computed on the basis of the aggregate amount of reasonable interest charges that the Secretary determines would have been required.

(c) Utilization of land for public purpose within reasonable period of time.

No grant shall be made under this section unless the Secretary determines that the land will be utilized for a public purpose within a reasonable period of time and that such utilization will contribute to economy, efficiency, and the comprehensively planned development of the area. The Secretary shall in all cases require that land acquired with the assistance of a grant under this section be utilized for a public purpose within five years after the date on which a contract to make such grant is entered into, unless the Secretary (1) determines that due to unusual circumstances a longer period of time is necessary and in the public interest, and (2) reports such determination promptly to the Committees on Banking and Currency of the Senate and House of Representatives.

(d) Diversion of land; repayment; interim use.

No land acquired with assistance under this section shall, without approval of the Secretary, be diverted from the purpose originally approved. The Secretary shall approve no such diversion unless he finds that the diversion is in accord with the then applicable comprehensive plan for the area. In cases of a diversion of land to other than a public purpose, the Secretary may require repayment of the grant, or substitution of land of approximately equal fair market value, whichever he deems appropriate. An interim use of the land for a public or private purpose in accordance with standards prescribed by the Secretary, or approved by him, shall not constitute a diversion within the meaning of this subsection.

(e) Eligibility for other Federal loans or grant programs.

Notwithstanding any other provision of law, no project for which land is acquired with assistance under this section shall, solely as a result of such advance acquisition, be considered ineligible for the purpose of any other Federal loan or grant program, and the amount of the purchase price paid for the land by the recipient of a grant under this section may be considered an eligible cost for the purpose of such other Federal loan or grant program. (Pub. L. 89–117, title VII, § 704, Aug. 10, 1965, 79 Stat. 491; Pub. L. 90–19, § 22(b), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title VI, § 603(b), Aug. 1, 1968, 82 Stat. 533.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–448 substituted "to be utilized in the future for public purposes" for "to be utilized in connection with the future construction of public works or facilities."

Subsec. (b). Pub. L. 90–448 changed the period from not more than the lesser of (1) five years from the date such loan was made or such financial obligation was incurred, or (2) the period of time between the date such loan was made or such financial obligation was incurred and the date construction is begun on the public work or facility, to not more than the lesser of (1) five years from the date of acquisition of such land, or (2) the period of time between the date on which the land was acquired and the date its use began for the purpose for which it was acquired, and inserted proviso requiring the amount of the grant, where all or any portion of the cost of land is not financed through borrowings, to be computed on the basis of the aggregate amount of reasonable interest charges that the Secretary determines would have been required.

Subsec. (c). Pub. L. 90–448 substituted provisions requiring the Secretary to determine that the land will be utilized for a public purpose within a reasonable period of time, for provisions which required a determination that the public work or facility for which the land is to be utilized is planned to be constructed or initiated within a reasonable period of time, empowered the Secretary to extend the time if he determines that due to unusual circumstances a longer period of time is necessary and in the public interest, and required a prompt report of such determination to Congressional Committees.

Subsec. (d). Pub. L. 90–448 inserted provisions prohibiting diversion of land without approval of the Secretary, directing the Secretary to disapprove any diversion unless he finds that the diversion is in accord with the then applicable comprehensive plan for the area, authorizing the Secretary to accept, in cases of repayment, substitution of land of approximately equal fair market value, and stating that an interim use of land for a public or private purpose in accordance with prescribed standards shall not constitute a diversion, and eliminated provisions which required repayment if the land purchased with assistance is not utilized within five years after the agreement is entered into in connection with the construction of the public work or facility for which the land was acquired.

Subsec. (e). Pub. L. 90–448 added subsec. (e).

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (c), and (d) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3108 of this title.

§ 3105. Powers and duties of Secretary.

(a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 1749a of Title 12, except subsections (a), (c)(2), and (f) thereof.

(b) The Secretary is authorized, notwithstanding the provisions of section 529 of Title 31, to make advance or progress payments on account of any grant made pursuant to this chapter. No part of any grant authorized to be made by the provisions of this chapter shall be used for the payment of ordinary governmental operating expenses. (Pub. L. 89–117, title VII, § 705, Aug. 10, 1965, 79 Stat. 492; Pub. L. 90–19, § 22(b), May 25, 1967, 81 Stat. 26.)

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) and (b) of this section.

§ 3106. Definitions.

As used in this chapter—

(a) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) The term "local public bodies and agencies" includes public corporate bodies or political subdivisions; public agencies or instrumentalities of one or more States, municipalities, or political subdivisions of one or more States (including public agencies and instrumentalities of one or more municipalities or other political subdivisions of one or more States); Indian tribes; and boards or commissions established under the laws of any State to finance specific capital improvement projects.

(c) The term "development cost" means the cost of constructing the facility and of acquiring the land on which it is located, including necessary site improvements to permit its use as a site for the facility.

(Pub. L. 89–117, title VII, § 706, Aug. 10, 1965, 79 Stat. 492.)

§ 3107. Labor standards.

All laborers and mechanics employed by contractors or subcontractors on projects assisted under sections 3102 and 3103 of this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. No such project shall be approved without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 89–117, title VII, § 707, Aug. 10, 1965, 79 Stat. 492.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3108. Authorization of appropriations.

(a) There are authorized to be appropriated for each fiscal year commencing after June 30, 1965, and ending prior to July 1, 1969, not to exceed (1)

$200,000,000 (or $350,000,000 in the case of the fiscal year commencing July 1, 1968) for grants under section 3102 of this title, (2) $50,000,000 for grants under section 3103 of this title, and (3) $25,000,000 for grants under section 3104 of this title. In addition, there is authorized to be appropriated for grants under section 3102 of this title not to exceed $115,000,000 for the fiscal year commencing July 1, 1969, and not to exceed $100,000,000 for the fiscal year commencing July 1, 1970. In addition, upon the enactment of the Emergency Community Facilities Act of 1970, there is authorized to be appropriated for grants under section 702 not to exceed $1,000,000,000 for the fiscal year commencing July 1, 1970. In addition, there is authorized to be appropriated for the fiscal year commencing July 1, 1971, not to exceed $50,000,000 for grants under section 3103 of this title.

(b) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972. (Pub. L. 89-117, title VII, § 708, Aug. 10, 1965, 79 Stat. 493; Pub. L. 90-448, title VI, § 605, Aug. 1, 1968, 82 Stat. 534; Pub. L. 91-152, title III, § 305(b), (c), Dec. 24, 1969, 83 Stat. 391; Pub. L. 91-431, § 3(a), (b), Oct. 6, 1970, 84 Stat. 886; Pub. L. 91-609, title III, § 304, Dec. 31, 1970, 84 Stat. 1780.)

REFERENCES IN TEXT

The Emergency Community Facilities Act of 1970, referred to in subsec. (a), is Pub. L. 91-431, Oct. 6, 1970, 84 Stat. 886. For classification of this act to the Code see section 1 of Pub. L. 91-431, set out as a Short Title note under section 3102 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609, § 304(a), authorized appropriation of $50,000,000 for fiscal year commencing July 1, 1971, for grants under section 3103 of this title.

Pub. L. 91-431, § 3(a), authorized appropriations for grants under section 3102 of this title of not to exceed $1,000,000,000 for the fiscal year commencing July 1, 1970.

Subsec. (b). Pub. L. 91-609, § 304(b), substituted "July 1, 1972" for "July 1, 1971".

Pub. L. 91-431, § 3(b), substituted "July 1, 1972" for "July 1, 1971".

1969—Subsec. (a). Pub. L. 91-152, § 305(c), authorized appropriations of not more than $100,000,000 for the fiscal year commencing July 1, 1970.

Subsec. (b). Pub. L. 91-152, § 305(b), substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (a). Pub. L. 90-448, § 605(b), authorized appropriations of not more than $350,000,000 for the fiscal year commencing July 1, 1968, and not more than $115,000,000 for the fiscal year commencing July 1, 1969.

Subsec. (b). Pub. L. 90-448, § 605(a), substituted "July 1, 1970" for "July 1, 1969."

CONGRESSIONAL STATEMENT OF FINDINGS

Section 2 of Pub. L. 91-431 provided that:

"(a) The Congress finds that a large number of municipalities and other entities of local government throughout the Nation are unable to finance construction of vital and urgently needed public facilities because of the shortage of funds for long-term borrowing.

"(b) The Congress further finds that there is an immediate need for such facilities in order to provide basic safeguards for the health and well-being of the people of the United States, to check widespread pollution of irreplaceable water sources, and to provide an effective and practical method of combating rising unemployment."

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 of section 143.

§ 3121. Congressional findings and statement of purpose.

The Congress declares that the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment; that such unemployment and underemployment cause hardship to many individuals and their families, and waste invaluable human resources; that to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development; that Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, provided that such assistance is preceded by and consistent with sound, long-range economic planning; and that under the provisions of this chapter new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another. (Pub. L. 89–136, § 2, Aug. 26, 1965, 79 Stat. 552.)

SHORT TITLE

Section 1 of Pub. L. 89–136 provided: "That this Act [enacting this chapter and amending former section 2211 of Title 5] may be cited as the 'Public Works and Economic Development Act of 1965'."

EX. ORD. NO. 11493. COUNCIL FOR RURAL AFFAIRS

The Council for Rural Affairs, which had been created by Ex. Ord. No. 11493, Nov. 13, 1969, 34 F.R. 18289, was terminated and its functions transferred to the Domestic Council by section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 16 of Title 31, Money and Finance. The functions thus transferred were formerly contained in section 2 of Ex. Ord. 11493, which directed that the Council advise and assist the President with respect to the further development of the non-metropolitan areas of the country and perform such other duties as the President might from time to time prescribe. In addition to such duties, the Council was directed to:

(1) Assist the President in the development of policies for rural areas, which shall include consideration of the affairs of the smaller cities and towns which lie outside the metropolitan areas.

(2) Secure information on the problems confronting rural America, identify their causes, and develop means to deal with them by using available programs or initiating new ones.

(3) Foster effective use and coordination of Federal programs in the non-metropolitan areas in order to improve the delivery of public services to the people.

(4) Encourage the fullest cooperation between Federal, State, and local governments, with special concern for local initiative and local decision-making.

(5) Ensure that in the development of policies and programs concerning rural affairs, the relationships between urban, suburban, and rural areas are taken into account.

(6) Encourage the most effective role possible for voluntary organizations in dealing with rural problems and their solutions.

(7) Encourage an improved geographical distribution of the population of the United States.

(8) Keep the President advised on progress in meeting national objectives.

§ 3122. Rural development.

(a) Congressional commitment.

The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

(b) Location of federal facilities; annual report to Congress.

Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain, insofar as practicable, departmental policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities. The President is hereby requested to submit to the Congress not later than September 1 of each fiscal year a report reflecting the efforts during the immediately preceding fiscal year of all executive departments and agencies in carrying out the provisions of this section, citing the location of all new facilities, and including a statement covering the basic reasons for the selection of all new locations.

(c) Planning assistance; annual report to Congress.

The Secretary of the Department of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a joint progress report as to their efforts during the immediately preceding fiscal year to provide assistance to States planning for the development of rural multicounty areas not included in economically depressed areas under authority of the Housing and Urban Development Act of 1968. The first such annual report shall be submitted not later than December 1, 1970, and shall cover the period beginning August 1, 1968, the date of enactment of the Housing and Urban Development Act of 1968, and ending June 30, 1970.

(d) Information and technical assistance; annual report to Congress.

The Secretary of Agriculture shall submit to the Congress a report not later than September 1 of each fiscal year reflecting the efforts of the Department of

Agriculture to provide information and technical assistance to small communities and less populated areas in regard to rural development during the immediately preceding fiscal year. The first such annual report shall be submitted not later than December 1, 1970, covering the period beginning July 1, 1969, and ending June 30, 1970. The Secretary shall include in such reports to what extent technical assistance has been provided through land-grant colleges and universities, through the Extension Service, and other programs of the Department of Agriculture.

(e) Government services; annual report to Congress.

The President shall submit to the Congress a report not later than September 1 of each fiscal year stating the availability of telephone, electrical, water, sewer, medical, educational, and other government or government assisted services to rural areas and outlining efforts of the executive branch to improve these services during the immediately preceding fiscal year. The President is requested to submit the first such annual report, covering the fiscal year ending June 30, 1970, on or before December 1, 1970.

(f) Financial assistance; report to Congress by July 1, 1971.

The President shall report to Congress on the possible utilization of the Farm Credit Administration and agencies in the Department of Agriculture to fulfill rural financial assistance requirements not filled by other agencies. The President is requested to submit the report requested by this section on or before July 1, 1971, together with such recommendations for legislation as he deems appropriate. (Pub. L. 91–524, title IX, § 901, Nov. 30, 1970, 84 Stat. 1383.)

REFERENCES IN TEXT

The Housing and Urban Development Act of 1968, referred to in subsec. (c), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, which is classified principally to section 1701t et seq. of Title 12, Banks and Banking. See Short Title note under section 1701t of Title 12.

CODIFICATION

Section was enacted as part of the Agricultural Act of 1970 and not as part of the Public Works and Economic Development Act of 1965 which comprises this chapter.

SUBCHAPTER I.—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3190 of this title.

§ 3131. Direct and supplementary grants.

(a) Acquisition or development of public works and development facilities; required findings precedent to making of direct grants; supplementary grants to provide matching share funds.

Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary of Commerce (hereinafter refered to as the Secretary) is authorized—

(1) to make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

(A) the project for which financial assistance is sought will directly or indirectly (i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities, (ii) otherwise assist in the creation of additional long-term employment opportunities for such area, or (iii) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964;

(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

(C) the area for which a project is to be undertaken has an approved overall economic development program as provided in section 3142 (b)(10) of this title and such project is consistent with such program;

(2) to make supplementary grants in order to enable the States and other entities within redevelopment areas to take maximum advantage of designated Federal grant-in-aid programs (as hereinafter defined), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666, as amended), and the eleven watersheds authorized by the Flood Control Act of December 22, 1944, as amended and supplemented (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

(b) Maximum proportion of direct grant funds to total project cost.

Subject to subsection (c) hereof, the amount of any direct grant under this section for any project shall not exceed 50 per centum of the cost of such project.

(c) Proportion of supplementary grant funds to total project cost; rules and regulations; maximum grants; required non-Federal share.

The amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Secretary, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 per centum of such cost, except that in the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below such per centum or may waive the non-Federal share. Supplementary grants shall be made by the Secretary, in accordance with such regulations as he shall prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this chapter to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs. Notwith-

standing any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in redevelopment areas under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law. The term "designated Federal grant-in-aid programs," as used in this subsection, means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Secretary may, in furtherance of the purposes of this chapter, designate as eligible for allocation of funds under this section. In determining the amount of any supplementary grant available to any project under this section, the Secretary shall take into consideration the relative needs of the area, the nature of the project to be assisted, and the amount of such fair user charges or other revenues as the project may reasonably be expected to generate in excess of those which would amortize the local share of initial costs and provide for its successful operation and maintenance (including depreciation).

(d) Rules and regulations; consideration of unemployment and underemployment in determining rules.

The Secretary shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Secretary shall consider among other relevant factors (1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment and (2) the income levels of families and the extent of underemployment in eligible areas.

(e) Competition with regulated public utilities.

Except for projects specifically authorized by Congress, no financial assistance shall be extended under this section with respect to any public service or development facility which would compete with an existing privately owned public utility rendering a service to the public at rates or charges subject to regulation by a State or Federal regulatory body, unless the State or Federal regulatory body determines that in the area to be served by the facility for which the financial assistance is to be extended there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake.

(f) Review and comment upon projects by local governmental authorities.

The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section. (Pub. L. 89–136, title I, § 101, Aug. 26, 1965, 79 Stat. 522; Pub. L. 91–123, title III, § 301(1), Nov. 25, 1969, 83 Stat. 219.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(1)(A), is classified to chapter 34 of this title.

The Watershed Protection and Flood Prevention Act, as amended, referred to in subsec. (a)(2), is classified to chapter 18 of Title 16, Conservation.

Flood Control Act of December 22, 1944, as amended and supplemented, is classified principally to chapter 15 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–123 authorized the Secretary to waive in whole or part the 20 per centum non-Federal share requirement for project grants to Indian tribes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3171, 3220, 3221, 3222, 3223 of this title.

§ 3132. Additional grants to areas of substantial unemployment during preceding calendar year; annual review of eligibility.

(a) In addition to the assistance otherwise authorized, the Secretary is authorized to make grants in accordance with the provisions of this subchapter to those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, were areas of substantial unemployment during the preceding calendar year.

(b) Areas designated under the authority of this section shall be subject to an annual review of eligibility in accordance with section 3162 of this title, and to all of the rules, regulations, and procedures applicable to redevelopment areas except as the Secretary may otherwise prescribe by regulation. (Pub. L. 89–136, title I, § 102, Aug. 26, 1965, 79 Stat. 554.)

§ 3133. Limitation of funds expended in any one State.

Not more than 15 per centum of the appropriations made pursuant to this subchapter may be expended in any one State. (Pub. L. 89–136, title I, § 103, Aug. 26, 1965, 79 Stat. 554.)

§ 3134. Ineligibility of Appalachian Region for projects.

No part of any appropriations made pursuant to this subchapter may be expended for any project in any area which is within the "Appalachian region" (as that term is defined in section 403 of the Appalachian Regional Development Act of 1965) which is approved for assistance under the Appalachian Regional Development Act of 1965. (Pub. L. 89–136, title I, § 104, Aug. 26, 1965, 79 Stat. 554.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965 is set out in the Appendix to Title 40, Public Buildings, Property, and Works.

§ 3135. Authorization of appropriations.

There is hereby authorized to be appropriated to carry out this subchapter not to exceed $500,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1971. (Pub. L. 89–136, title I, § 105, Aug. 26, 1965, 79 Stat. 544; Pub. L. 91–123, title III, § 301(2), Nov. 25, 1969, 83 Stat. 219; Pub. L. 91–304, § 1(a), July 6, 1970, 84 Stat. 375.)

AMENDMENTS

1970—Pub. L. 91–304 extended the authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1971.

1969—Pub. L. 91-123 extended the authorization of appropriations from the fiscal year ending June 30, 1969 to the fiscal year ending June 30, 1970.

§ 3136. Sewer and other waste disposal facilities; certification by Administrator of the Environmental Protection Agency regarding adequate treatment prior to discharge into streams.

No financial assistance, through grants, loans, guarantees, or otherwise, shall be made under this chapter to be used directly or indirectly for sewer or other waste disposal facilities unless the Administrator of the Environmental Protection Agency certifies to the Secretary that any waste material cerried by such facilities will be adequately treated before it is discharged into any public waterway so as to meet applicable Federal, State, interstate, or local water quality standards. (Pub. L. 89-136, title I, § 106, Aug. 26, 1965, 79 Stat. 554; 1966 Reorg. Plan No. 2, § 1 (h)(3), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. —.)

TRANSFER OF FUNCTIONS

"Administrator of the Environmental Protection Agency" was substituted for "Secretary of the Interior" pursuant to 1970 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Water Quality Administration in the Department of the Interior and transferred to the Administrator of the Environmental Protection Agency all functions which had been transferred to the Secretary of the Interior from the Secretary of Health, Education, and Welfare by Reorg. Plan No. 2 of 1966.

Secretary of Health, Education, and Welfare was changed to Secretary of the Interior pursuant to section 1(h)(3) of 1966 Reorg. Plan No. 2, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608, set out in the Appendix to Title 5, Government Organization and Employees, which transferred to the Secretary of the Interior the functions of the Secretary of Health, Education. and Welfare under this section.

SUBCHAPTER II.—LOANS, LOAN GUARANTEES, AND ECONOMIC DEVELOPMENT REVOLVING FUND

SUBCHAPTER REFFERED TO IN OTHER SECTIONS

This subchapter is referred to in section 3190 of this title.

§ 3141. Public works and development facility loans.

(a) Required findings precedent.

Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary is authorized to purchase evidence of indebtedness and to make loans to assist in financing the purchase or development of land and improvements for public works, public service, or development facility usage, including public works, public service, and development facility usage, to be provided by agencies of the Federal Government pursuant to legislation requiring that non-Federal entities bear some part of the cost thereof, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

(1) the project for which financial assistance is sought will directly or indirectly—

(A) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities,

(B) otherwise assist in the creation of additional long-term employment opportunities for such area, or

(C) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964;

(2) the funds requested for such project are not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary will permit the accomplishment of the project;

(3) the amount of the loan plus the amount of other available funds for such project are adequate to insure the completion thereof;

(4) there is a reasonable expectation of repayment; and

(5) such area has an approved overall economic development program as provided in section 3142(b)(10) of this title and the project for which financial assistance is sought is consistent with such program.

(b) Loan terms; interest rates.

Subject to section 3211(5) of this title, no loan, including renewals or extensions thereof, shall be made under this section for a period exceeding forty years, and no evidence of indebtedness maturing more than forty years from the date of purchase shall be purchased under this section. Such loans shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed one-half of 1 per centum per annum.

(c) Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 3142 of this title: *Provided,* That annual appropriations for the purpose of purchasing evidences of indebtedness, making and participating in loans, and guaranteeing loans shall not exceed $170,000,000, for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1971.

(d) Competition with regulated public utilities.

Except for projects specifically authorized by Congress, no financial assistance shall be extended under this section with respect to any public service or development facility which would compete with an existing privately owned public utility rendering a service to the public at rates or charges subject to regulation by a State or Federal regulatory body, unless the State or Federal regulatory body determines that in the area to be served by the facility for which the financial assistance is to be extended

there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake.

(e) Rules and regulations.

The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section. (Pub. L. 89–136, title II, § 201, Aug. 26, 1965, 79 Stat. 554; Pub. L. 91–304, § 1(b), July 6, 1970, 84 Stat. 375.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(1)(C), is classified to chapter 34 of this title.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–304 extended the limitations on the authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3143, 3171, 3211, 3220, 3221, 3222, 3223 of this title.

§ 3142. Business loans and loan guarantees.

(a) Permissible guarantees; guarantee maximums.

The Secretary is authorized (1) to purchase evidences of indebtedness and to make loans (which for purposes of this section shall include participations in loans) to aid in financing any project within a redevelopment area for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) to guarantee loans for working capital made to private borrowers by private lending institutions in connection with projects in redevelopment areas assisted under subsection (a)(1) hereof, upon application of such institution and upon such terms and conditions as the Secretary may prescribed: *Provided, however,* That no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

(b) Terms and conditions.

Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

(1) Such financial assistance shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them: *Provided, however,* That such limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) Such assistance shall be extended only to applicants, both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision.

(3) The project for which financial assistance is sought must be reasonably calculated to provide more than a temporary alleviation of unemployment or underemployment within the redevelopment area wherein it is or will be located.

(4) No loan or guarantee shall be extended hereunder unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary will permit the accomplishment of the project.

(5) The Secretary shall not make any loan without a participation unless he determines that the loan cannot be made on a participation basis.

(6) No evidences of indebtedness shall be purchased and no loans shall be made or guaranteed unless it is determined that there is reasonable assurance of repayment.

(7) Subject to section 3211(5) of this title, no loan, including renewals or extension thereof, may be made hereunder for a period exceeding twenty-five years and no evidences of indebtedness maturing more than twenty-five years from date of purchase may be purchased hereunder: *Provided,* That the foregoing restrictions on maturities shall not apply to securities or obligations received by the Secretary as a claimant in bankruptcy or equitable reorganization or as a creditor in other proceedings attendant upon insolvency of the obligor.

(8) Loans made and evidences of indebtedness purchased under this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose.

(9) Loan assistance shall not exceed 65 per centum of the aggregate cost to the applicant (excluding all other Federal aid in connection with the undertaking) of acquiring or developing land and facilities (including machinery and equipment), and of constructing, altering, converting,

rehabilitating, or enlarging the building or buildings of the particular project, and shall, among others, be on the condition that—

(A) other funds are available in an amount which, together with the assistance provided hereunder, shall be sufficient to pay such aggregate cost;

(B) not less than 15 per centum of such aggregate cost be supplied as equity capital or as a loan repayable in no shorter period of time and at no faster an amortization rate than the Federal financial assistance extended under this section is being repaid, and if such a loan is secured, its security shall be subordinate and inferior to the lien or liens securing such Federal financial assistance: *Provided, however,* That, except in projects involving financial participation by Indian tribes, not less than 5 per centum of such aggregate cost shall be supplied by the State or any agency, instrumentality, or political subdivision thereof, or by a community or area organization which is nongovernmental in character, unless the Secretary shall determine in accordance with objective standards promulgated by regulation that all or part of such funds are not reasonably available to the project because of the economic distress of the area or for other good cause, in which case he may waive the requirement of this provision to the extent of such unavailability, and allow the funds required by this subsection to be supplied by the applicant or by such other non-Federal source as may reasonably be available to the project;

(C) to the extent the Secretary finds such action necessary to encourage financial participation in a particular project by other lenders and investors, and except as otherwise provided in subparagraph (B), any Federal financial assistance extended under this section may be repayable only after other loans made in connection with such project have been repaid in full, and the security, if any, for such Federal financial assistance may be subordinate and inferior to the lien or liens securing other loans made in connection with the same project.

(10) No such assistance shall be extended unless there shall be submitted to and approved by the Secretary an overall program for the economic development of the area and a finding by the State, or any agency, instrumentality, or local political subdivision thereof, that the project for which financial assistance is sought is consistent with such program: *Provided,* That nothing in this chapter shall authorize financial assistance for any project prohibited by laws of the State or local political subdivision in which the project would be located, nor prevent the Secretary from requiring such periodic revisions of previously approved overall economic development programs as he may deem appropriate. (Pub. L. 89-136, title II, § 202, Aug. 26, 1965, 79 Stat. 556.)

LOANS FOR MODIFICATIONS OF MINING FACILITIES AND EQUIPMENT

Loans for alteration of equipment or facilities of coal mines pursuant to terms and conditions of this section, see section 504(d) of Pub. L. 91-173, set out as a note under section 636 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3131, 3141, 3142-1, 3143, 3161, 3162, 3171, 3211, 3220, 3221, 3222, 3223 of this title.

§ 3142-1. Loans for additions or alterations to equipment, facilities, or operating methods for compliance of small business concern with applicable occupational safety and health standards.

Loans may also be made or guaranteed for the purposes set forth in section 636(b)(6) of Title 15, pursuant to the provisions of section 3142 of this title. (Pub. L. 91-596, § 28(d), Dec. 29, 1970, 84 Stat. 1618.)

CODIFICATION

Section was enacted as part of the Occupational Safety and Health Act of 1970 and not as part of the Public Works and Economic Development Act of 1965 which comprises this chapter.

EFFECTIVE DATE

Section effective 120 days after Dec. 29, 1970, see section 34 of Pub. L. 91-596, set out as a note under section 651 of Title 29, Labor.

§ 3142a. Rivers and harbors and other waterways projects for benefit of navigation, flood control, hurricane protection, beach erosion control, and other purposes.

(a) Congressional declaration of policy; purchase of indebtedness and loans to local interests to meet contribution requirements.

In the prosecution of projects for rivers and harbors and other waterways for the benefit of navigation, the control of destructive flood waters, hurricane protection, beach erosion control, and for other purposes, authorized to be prosecuted under the direction of the Secretary of the Army under the supervision of the Chief of Engineers in accordance with plans adopted and authorized by the Congress, it is hereby declared to be the policy of the Congress, that whenever such projects are located wholly or partially within an area which is eligible for financial assistance under the Public Works and Economic Development Act of 1965, the Secretary of Commerce is authorized to purchase evidences of indebtedness and to make loans for a period not exceeding fifty years to enable responsible local interests to meet the requirements of local cooperation pertaining to contributions toward the cost of construction of such projects within such areas.

(b) Authorization of appropriations.

There is hereby authorized to be appropriated to carry out this section, not to exceed $10,000,000 per fiscal year for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through and including the fiscal year ending June 30, 1970. (Pub. L. 89-298, title II, § 217, Oct. 27, 1965, 79 Stat. 1088.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (b), is classified to this chapter.

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1965 and not as a part of the Public Works and Economic Development Act of 1965 which comprises this chapter.

§ 3143. Economic Development Revolving Fund.

Funds obtained by the Secretary under section 3141 of this title, loan funds obtained under section 3171 of this title, and collections and repayments received under this chapter, shall be deposited in an economic development revolving fund (hereinafter referred to as the "fund"), which is hereby established in the Treasury of the United States, and which shall be available to the Secretary for the purpose of extending financial assistance under sections 3141, 3142, and 3171 of this title, and for the payment of all obligations and expenditures arising in connection therewith. There shall also be credited to the fund such funds as have been paid into the area redevelopment fund or may be received from obligations outstanding under the Area Redevelopment Act. The fund shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the amount of loans outstanding under this chapter computed in such manner and at such rate as may be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, during the month of June preceding the fiscal year in which the loans were made. (Pub. L. 89-136, title II, § 203, Aug. 26, 1965, 79 Stat. 558.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in text, was formerly set out as chapter 28 of this title and is now covered by this chapter.

SUBCHAPTER III.—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

§ 3151. Technical assistance.

(a) Use of Secretary's staff members; contracts; grants; repayment.

In carrying out his duties under this chapter the Secretary is authorized to provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment (1) to areas which he has designated as redevelopment areas under this chapter, and (2) to other areas which he finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic growth of such areas. Such assistance may be provided by the Secretary through members of his staff, through the payment of funds authorized for this section to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations. The Secretary, in his discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

(b) Grants covering administrative expenses; use of funds in conjunction with other grants.

The Secretary is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of organizations which he determines to be qualified to receive grants-in-aid under subsection (a) hereof. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, such as urban planning grants authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized under the Federal Aid Highway Act of 1962, to assure adequate and effective planning and economical use of funds.

(c) Research in causes of chronic depression; availability of resulting data; annual report.

To assist in the long-range accomplishment of the purposes of this chapter, the Secretary, in cooperation with other agencies having similar functions, shall establish and conduct a continuing program of study, training, and research to (A) assist in determining the causes of unemployment, underemployment, underdevelopment, and chronic depression in the various areas and regions of the Nation, (B) assist in the formulation and implementation of national, State, and local programs which will raise income levels and otherwise produce solutions to the problems resulting from these conditions, and (C) assist in providing the personnel needed to conduct such programs. The program of study, training, and research may be conducted by the Secretary through members of this staff, through payment of funds authorized for this section to other departments or agencies of the Federal Government, or through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants to such individuals, organizations, or institutions, or through conferences and similar meetings organized for such purposes. The Secretary shall make available to interested individuals and organizations the results of such research. The Secretary shall include in his annual report under section 3217 of this title a detailed statement concerning the study and research conducted under this section together with his findings resulting therefrom and his recommendations for legislative and other action.

(d) Availability of technical information in redevelopment areas; Federal procurement in redevelopment areas.

The Secretary shall aid redevelopment areas and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market

research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Secretary may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in redevelopment areas and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

(e) Omitted.

(f) Grants and contracts for demonstration projects within regional development areas; purposes.

The Secretary is authorized to make grants, enter into contracts or otherwise provide funds for any demonstration project within a redevelopment area or areas which he determines is designed to foster regional productivity and growth, prevent outmigration, and otherwise carry out the purposes of this chapter. (Pub. L. 89-136, title III, § 301, Aug. 26, 1965, 79 Stat. 558; Pub. L. 91-123, title III, § 302, Nov. 25, 1969, 83 Stat. 219.)

REFERENCES IN TEXT

The urban planning grants authorized under the Housing Act of 1954, referred to in subsec. (b), are provided for in sections 460—462 of Title 40, Public Buildings, Property, and Works. For classification of the Housing Act of 1954 generally, see tables volume.

Highway planning and research grants, authorized under the Federal Aid Highway Act of 1962, referred to in subsec. (b), are provided for in section 307 of Title 23, Highways. For classification of the Federal Aid Highway Act of 1962 generally, see tables volume.

CODIFICATION

Subsec. (e) made provision for an independent study board consisting of governmental and non-governmental experts to investigate the effects of governmental procurement, scientific, technical, and other related policies upon regional economic development. Such board was directed to complete its study and submit its report and recommendations for better coordination of such policies not later than Aug. 26, 1967.

AMENDMENTS

1969—Subsec. (f). Pub. L. 91-123 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3211 of this title.

§ 3152. Authorization of appropriations.

There is hereby authorized to be appropriated $25,000,000 annually for the purposes of this subchapter, for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1969, and $50,000,000 per fiscal year for the fiscal years ending June 30, 1970, and June 30, 1971. (Pub. L. 89-136, title III, § 302, Aug. 26, 1965, 79 Stat. 560; Pub. L. 91-123, title III, § 303, Nov. 25, 1969, 83 Stat. 219; Pub. L. 91-304, § 1(c), July 6, 1970, 84 Stat. 375.)

AMENDMENTS

1970—Pub. L. 91-304 authorized appropriation of $50,000,000 for the fiscal year ending June 30, 1971.

1969—Pub. L. 91-123 increased authorized appropriation from $25,000,000 to $50,000,000 for the fiscal year ending June 30, 1970.

SUBCHAPTER IV.—AREA AND DISTRICT ELIGIBILITY

PART A.—REDEVELOPMENT AREAS

§ 3161. Area eligibility.

(a) Criteria for determining eligible areas; unemployment; median family income; Indian lands; loss of major source of employment.

The Secretary shall designate as "redevelopment areas"—

(1) those areas in which he determines, upon the basis of standards generally comparable with those set forth in paragraphs (A) and (B), that there has existed substantial and persistent unemployment for an extended period of time and those areas in which he determines there has been a substantial loss of population due to lack of employment opportunity. There shall be included among the areas so designated any area—

(A) where the Secretary of Labor finds that the current rate of unemployment, as determined by appropriate annual statistics for the most recent available calendar year, is 6 per centum or more and has averaged at least 6 per centum for the qualifying time periods specified in paragraph (B); and

(B) where the Secretary of Labor finds that the annual average rate of unemployment has been at least—

(i) 50 per centum above the national average for three of the preceding four calendar years, or

(ii) 75 per centum above the national average for two of the preceding three calendar years, or

(iii) 100 per centum above the national average for one of the preceding two calendar years.

The Secretary of Labor shall find the facts and provide the data to be used by the Secretary in making the determinations required by this subsection;

(2) those additional areas which have a median family income not in excess of 40 per centum of the national median, as determined by the most recent available statistics for such areas;

(3) those additional Federal or State Indian reservations or trust or restricted Indian-owned land areas which the Secretary, after consultation with the Secretary of the Interior or an appropriate State agency, determines manifest the greatest degree of economic distress on the basis of unemployment and income statistics and other appropriate evidence of economic underdevelopment;

(4) upon request of such areas, those additional areas in which the Secretary determines that the loss, removal, curtailment, or closing of a major source of employment has caused within three years prior to, or threatens to cause within three years after, the date of the request an unusual and abrupt rise in unemployment of such magnitude that the unemployment rate for the area at the time of the request exceeds the national aver-

age, or can reasonably be expected to exceed the national average, by 50 per centum or more unless assistance is provided. Notwithstanding any provision of subsection (b) of this section to the contrary, an area designated under the authority of this paragraph may be given a reasonable time after designation in which to submit the overall economic development program required by section 3142(b)(10) of this title;

(5) notwithstanding any provision of this section to the contrary, those additional areas which were designated redevelopment areas under the Area Redevelopment Act on or after March 1, 1965: *Provided, however,* That the continued eligibility of such areas after the first annual review of eligibility conducted in accordance with section 3162 of this title shall be dependent on their qualification for designation under the standards of economic need set forth in subsections (a)(1) through (a)(4) of this section;

(6) those areas selected for assistance under part D of title I of the Economic Opportunity Act of 1964, and those areas which the Secretary determines meet the purposes of section 150 of part D of title I of the Economic Opportunity Act of 1964, and which otherwise meet the requirements of this chapter, except that no redevelopment area established under this paragraph shall be eligible to meet the requirement of section 3171(a)(1)(B) of this title.

(b) Size and boundaries of redevelopment areas.

The size and boundaries of redevelopment areas shall be as determined by the Secretary: *Provided, however,* That—

(1) no area shall be designated until it has an approved overall economic development program in accordance with section 3142(b)(10) of this title;

(2) any area which does not submit an acceptable overall economic development program in accordance with section 3142(b)(10) of this title within a reasonable time after notification of eligibility for designation, shall not thereafter be designated prior to the next annual review of eligibility in accordance with section 3162 of this title;

(3) no area shall be designated which does not have a population of at least one thousand five hundred persons, except that this limitation shall not apply to any area designated under subsection (a)(3) or (a)(6) of this section; and

(4) except for areas designated under subsections (a)(3), (a)(4) and (a)(6) hereof, no area shall be designated which is smaller than a "labor area" (as defined by the Secretary of Labor), a county, or a municipality with a population of over two hundred and fifty thousand, whichever in the opinion of the Secretary is appropriate.

(c) Use of data compiled by other Secretaries in making determination of redevelopment areas.

Upon the request of the Secretary, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and such other heads of agencies as may be appropriate are authorized to conduct such special studies, obtain such information, and compile and furnish to the Secretary such data as the Secretary may deem necessary or proper to enable him to make the determinations provided for in this section. The Secretary shall reimburse when appropriate, out of any funds appropriated to carry out the purposes of this chapter, the foregoing officers for any expenditures incurred by them under this section.

(d) Designation of areas most nearly qualifying as redevelopment areas in event of failure of any area in State to qualify under preceding subsections.

If a State has no area designated under the preceding subsections of this section as a redevelopment area, the Secretary shall designate as a redevelopment area that area in such State which in his opinion most nearly qualifies under such preceding subsections. An area so designated shall have its eligibility terminated in accordance with the provisions of section 3162 of this title if any other area within the same State subsequently has become qualified or been designated under any other subsection of this section other than subsection (a)(6) as of the time of the annual review prescribed by section 3162 of this title: *Provided,* That the Secretary shall not terminate any designation of an area in a State as a redevelopment area if to do so would result in such State having no redevelopment area.

(e) Definitions.

As used in this chapter, the term "redevelopment area" refers to any area within the United States which has been designated by the Secretary as a redevelopment area. (Pub. L. 89-136, title IV, § 401, Aug. 26, 1965, 79 Stat. 560; Pub. L. 89-794, title XI, § 1102, Nov. 8, 1966, 80 Stat. 1477; Pub. L. 91-123, title III, § 304, Nov. 25, 1969, 83 Stat. 219.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in subsec. (a)(5), was Pub. L. 87-27, May 1, 1961, 75 Stat. 47, formerly classified to chapter 28 of this title, and was omitted from the Code as executed. The provisions are now covered by this chapter.

Part D of title I of the Economic Opportunity Act of 1964, referred to in subsec. (a)(6), is classified to section 2763 et seq. of this title.

Section 150 of part D of title I of the Economic Opportunity Act of 1964, referred to in subsec. (a)(6), is classified to section 2763 of this title.

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-123, § 304(a), added par. (6).

Subsec. (b)(3). Pub. L. 91-123, § 304(b), inserted a reference to subsec. (a)(6) of this section.

Subsec. (b)(4). Pub. L. 91-123, § 304(c), inserted a reference to subsec. (a)(6) of this section.

Subsec. (d). Pub. L. 91-123, § 304(d), provided for the termination of eligibility in accordance with the provisions of section 3162 of this title of any designated area if any other area within the same state becomes qualified or designated under any subsection of this section other than subsec. (a)(6).

1966—Subsec. (b)(3). Pub. L. 89-794 substituted "except that this limitation shall not apply to any area designated under subsection (a)(3) of this section; and" for "except for areas designated under subsection (a)(3) of this section, which shall have a population of not less than one thousand persons; and".

EX. ORD. NO. 11307. COORDINATION OF FEDERAL PROGRAMS AFFECTING AGRICULTURAL AND RURAL AREA DEVELOPMENT

Ex. Ord. No. 11307, Sept. 30, 1966, 31 F.R. 12917, provided:

WHEREAS the development of our Nation's agricultural and rural areas has undergone radical changes due to technological advancements and the increasing urbanization of the Nation's society and economy; and

WHEREAS the living standards and welfare of the rural area population depend upon a successful accommodation to these changes; and

WHEREAS Congress has vested responsibilities in the Secretary of Agriculture for the administration of numerous programs aimed at the achievement of sound agricultural and rural development; and

WHEREAS such programs are closely interrelated with important programs and activities administered by other Federal departments and agencies, which affect agricultural and rural area development; and

WHEREAS the President has directed the Secretary of Agriculture to put the facilities of Department of Agriculture field offices at the disposal of all Federal agencies to assist them in making their programs effective in rural areas, and jointly with the Director of the Bureau of the Budget to review with the head of each department or agency the administrative obstacles which may stand in the way of equitable distribution in rural areas of the benefits of their programs and to propose administrative or legislative steps which can be taken to assure that equity is attained to assure full participation by rural areas; and

WHEREAS the highest level of coordination is required between the Department of Agriculture and such other Federal departments and agencies in order to achieve the maximum beneficial impact on agricultural and rural area development:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Responsibility of the Secretary.* (a) The Secretary of Agriculture shall take the initiative in identifying problems of agricultural and rural area development which require the cooperation of various Federal departments and agencies for their effective solution, and pursuant thereto shall convene, or authorize his representatives to convene, meetings at appropriate times and places, to which he shall invite the heads of such departments and agencies as may be responsible for interrelated programs or activities, or representatives designated by them, for the following purposes:

(1) To provide a forum for consideration of mutual problems concerning Federal programs and activities affecting agricultural and rural area development and for the exchange of information needed to achieve coordination of, and to avoid duplication in, such programs and activities.

(2) To promote cooperation among Federal departments and agencies in achieving consistent policies, practices, and procedures for administration of their programs affecting agricultural and rural area development.

(3) To consult with and obtain the advice of appropriate Federal departments and agencies with respect to:

(A) intergovernmental relations and cooperation in promoting sound agricultural and rural area development;

(B) provision of information and technical assistance to State and local governments in solving agricultural and rural area development problems; and

(C) encouragement of comprehensive planning of, and effective regional, State, and local cooperation in agricultural and rural area development activities.

(4) To identify agricultural and rural area development problems of particular States, regions, or localities which require interagency or intergovernmental coordination.

(b) The Secretary shall make arrangements with such Federal departments and agencies for such working groups as they shall agree may be desirable to consider special problems arising with respect to matters described in subsection (a) of this section.

SEC. 2. *Agency responsibilities.* The heads of Federal departments and agencies having programs which have an impact on agricultural or rural area development shall to the extent permitted by law and funds available, furnish information, at the request of the Secretary, pertaining to programs within the responsibilities of such departments or agencies, and such additional information as will assist the Secretary in developing solutions to agricultural and rural area development problems.

SEC. 3. *Construction.* Nothing in this Order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SEC. 4. *Administrative arrangements.* (a) Each executive department and agency participating under section 1 or section 2 shall furnish necessary assistance for effectuating the provisions of this Order as authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691).

(b) The Department of Agriculture shall provide necessary administrative services pursuant to this Order.

SEC. 5. Executive Order 11122 of October 16, 1963, establishing the Rural Development Committee, is hereby superseded.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3162, 3171, 3225 of this title.

§ 3162. Annual review of area eligibility; termination of eligibility; notification of change of classification.

The Secretary shall conduct an annual review of all areas designated in accordance with section 3161 of this title, and on the basis thereof shall terminate or modify the designations of such areas in accordance with objective standards which he shall prescribe by regulation. No area previously designated shall retain its designated status unless it maintains a currently approved overall economic development program in accordance with section 3142 (b)(10) of this title. No termination of eligibility shall (1) be made without thirty days' prior notification to the area concerned, (2) affect the validity of any application filed, or contract or undertaking entered into, with respect to such area pursuant to this chapter prior to such termination, (3) prevent any such area from again being designated a redevelopment area under section 3161 of this title if the Secretary determines it to be eligible under such section, or (4) be made in the case of any designated area where the Secretary determines that an improvement in the unemployment rate of a designated area is primarily the result of increased employment in occupations not likely to be permanent. The Secretary shall keep the departments and agencies of the Federal Government, and interested State or local agencies, advised at all times of any changes made hereunder with respect to the classification of any area. (Pub. L. 89–136, title IV, § 402, Aug. 26, 1965, 79 Stat. 561.)

TERMINATION OR MODIFICATION OF DESIGNATION AS REDEVELOPMENT AREA AFTER MAY 1, 1970 AND BEFORE JUNE 1, 1971

Pub. L. 91–304, § 2, July 6, 1970, 84 Stat. 375, provided that: "Notwithstanding section 402 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162) [this section], no area designated as a redevelopment area for the purposes of such Act [see Short Title note set out under section 3121 of this title] shall have such designation terminated or modified in accordance with

such section after May 1, 1970, and before June 1, 1971, unless the local governing body of the county qualified under existing criteria for de-designation specifically requests de-designation action."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3132, 3161 of this title.

PART B.—ECONOMIC DEVELOPMENT DISTRICTS

§ 3171. District eligibility.

(a) Authority to designate economic development districts; criteria; economic development centers; increases of grants.

In order that economic development projects of broader geographical significance may be planned and carried out, the Secretary is authorized—

(1) to designate appropriate "economic development districts" within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single redevelopment area;

(B) the proposed district contains two or more redevelopment areas;

(C) the proposed district contains one or more redevelopment areas or economic development centers identified in an approved district overall economic development program as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the redevelopment areas within the district; and

(D) the proposed district has a district overall economic development program which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary;

(2) to designate as "economic development centers," in accordance with such regulations as he shall prescribe, such areas as he may deem appropriate, if—

(A) the proposed center has been identified and included in an approved district overall economic development program and recommended by the State or States affected for such special designation;

(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the redevelopment areas of the district; and

(C) the proposed center does not have a population in excess of two hundred and fifty thousand according to the last preceding Federal census.

(3) to provide financial assistance in accordance with the criteria of sections 3131, 3141, and 3142 of this title, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2) above, if—

(A) the project will further the objectives of the overall economic development program of the district in which it is to be located;

(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

(4) subject to the 20 per centum non-Federal share required for any project by section 3131(c) of this title, to increase the amount of grant assistance authorized by section 3131 of this title for projects within redevelopment areas (designated under section 3161 of this title), by an amount not to exceed 10 per centum of the aggregate cost of any such project, in accordance with such regulations as he shall prescribe if—

(A) the redevelopment area is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

(B) the project is consistent with an approved district overall economic development program.

(b) State proposals; state and local participation.

In designating economic development districts and approving district overall economic development programs under subsection (a) of this section, the Secretary is authorized, under regulations prescribed by him—

(1) to invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

(2) to cooperate with the several States—

(A) in sponsoring and assisting district economic planning and development groups, and

(B) in assisting such district groups to formulate district overall economic development programs;

(3) to encourage participation by appropriate local governmental authorities in such economic development districts.

(c) Termination and modification of districts and centers.

The Secretary shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

(d) Definition of economic development district.

As used in this chapter, the term "economic development district" refers to any area within the United States composed of cooperating redevelopment areas and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Secretary as an economic development district.

(e) Definition of economic development center.

As used in this chapter, the term "economic development center" refers to any area within the United

States which has been identified as an economic development center in an approved district overall economic development program and which has been designated by the Secretary as eligible for financial assistance under sections 3131, 3141, and 3142 of this title in accordance with the provisions of this section.

(f) Definition of local government.

For the purpose of this chapter the term "local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

(g) Authorization of appropriations.

There is hereby authorized to be appropriated not to exceed $50,000,000 for the fiscal year ending June 30, 1967, and for each fiscal year thereafter through the fiscal year ending June 30, 1971, for financial assistance extended under the provisions of subsection (a)(3) and (a)(4) hereof. (Pub. L. 89–136, title IV, § 403 (a)—(g), Aug. 26, 1965, 79 Stat. 562; Pub. L. 91–304, § 1(d), July 6, 1970, 84 Stat. 375.)

AMENDMENTS

1970—Subsec. (g). Pub. L. 91–304 extended the authorization of appropriations from the fiscal year ending June 30, 1970 to the fiscal year ending June 30, 1971.

EFFECTIVE DATE OF SUBSECTION (g)

Section 403(h) of Pub. L. 89–136 provided that: "In order to allow time for adequate and careful district planning, subsection (g) of this section [subsec. (g) of this section] shall not be effective until one year from the date of enactment [Aug. 26, 1965]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3143, 3211, 3220, 3221, 3222, 3223, 3225 of this title.

SUBCHAPTER V.—REGIONAL ACTION PLANNING COMMISSIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 23 section 143.

§ 3181. Economic development regions; required findings precedent to designation of region by Secretary; alteration of geographical area.

(a) The Secretary is authorized to designate appropriate "economic development regions" within the United States with the concurrence of the States in which such regions will be wholly or partially located if he finds (A) that there is a relationship between the areas within such region geographically, culturally, historically, and economically, (B) that with the exception of Alaska and Hawaii, the region is within contiguous States, and (C) upon consideration of the following matters, among others, that the region has lagged behind the whole Nation in economic development:

(1) the rate of unemployment is substantially above the national rate;

(2) the median level of family income is significantly below the national median;

(3) the level of housing, health, and educational facilities is substantially below the national level;

(4) the economy of the area has traditionally been dominated by only one or two industries, which are in a state of long-term decline;

(5) the rate of outmigration of labor or capital or both is substantial;

(6) the area is adversely affected by changing industrial technology;

(7) the area is adversely affected by changes in national defense facilities or production; and

(8) indices of regional production indicate a growth rate substantially below the national average.

(b) Upon resolution of the Committee on Public Works of the Senate or the House of Representatives, the Secretary is directed to study the advisability of altering the geographical area of any region designated under this section, in order to further the purpose of this chapter. (Pub. L. 89–136, title V, § 501, Aug. 26, 1965, 79 Stat. 564; Pub. L. 91–123, title II, § 202, Nov. 25, 1969, 83 Stat. 216.)

AMENDMENTS

1969—Pub. L. 91–123 designated existing provisions as subsec. (a) and added subsec. (b).

SHORT TITLE OF 1969 AMENDMENT

Section 201 of Pub. L. 91–123 provided that: "This title [which enacted sections 3190, 3191, and 3192 of this title and amended this section and sections 3185, 3186, and 3188a of this title] may be cited as the 'Regional Action Planning Commission Amendments of 1969'."

REVIEW OF DESIGNATIONS

Federal Advisory Council on Regional Economic Development authorized to review proposed designations of additional economic development regions, see section 3 (c) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of this title.

§ 3182. Regional commissions.

(a) Establishment.

Upon designation of development regions, the Secretary shall invite and encourage the States wholly or partially located within such regions to establish appropriate multistate regional commissions.

(b) Membership; appointment of Federal cochairman; election of State cochairman.

Each such commission shall be composed of one Federal member, hereinafter referred to as the "Federal cochairman", appointed by the President by and with the advice and consent of the Senate, and one member from each participating State in the region. Each State member may be the Governor, or his designee, or such other person as may be provided by the law of the State which he represents. The State members of the commission shall elect a cochairman of the commission from among their number.

(c) Voting; consultation with interested Federal departments and agencies.

Decisions by a regional commission shall require the affirmative vote of the Federal cochairman and of a majority, or at least one if only two, of the State members. In matters coming before a regional commission, the Federal cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

(d) Alternate members; appointment and voting.

Each State member of a regional commission shall have an alternate, appointed by the Governor or as otherwise may be provided by the law of the State which he represents. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal cochairman of each re-

gional commission. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State of Federal cochairman for which he is an alternate.

(e) Compensation of members and alternates.

The Federal cochairman to a regional commission shall be compensated by the Federal Government from funds authorized by this chapter up to level IV of the Federal Executive Salary Schedule. His alternate shall be compensated by the Federal Government from funds authorized by this chapter at not to exceed the maximum scheduled rate for grade GS–18 of the General Schedule, and when not actively serving as an alternate for the Federal cochairman shall perform such functions and duties as are delegated to him by the Federal cochairman. Each State member and his alternate shall be compensated by the State which they represent at the rate established by the law of such State.

(f) Alaska or Hawaii regions.

If the Secretary finds that the State of Alaska or the State of Hawaii meet the requirements for an economic development region, he may establish a Commission for either State in a manner agreeable to him and to the Governor of the affected State. (Pub. L. 89–136, title V, § 502, Aug. 26, 1965, 79 Stat. 564.)

REFERENCES IN TEXT

For the maximum scheduled rate for grade GS–18 of the General Schedule, referred to in subsec. (e), see section 5332 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5334 of title 5.

§ 3183. Functions of Commission.

(a) Activities.

In carrying out the purposes of this chapter, each Commission shall with respect to its region—

(1) advise and assist the Secretary in the identification of optimum boundaries for multistate economic development regions;

(2) initiate and coordinate the preparation of long-range overall economic development programs for such regions, including the development of a comprehensive long-range economic plan approved by the Secretary;

(3) foster surveys and studies to provide data required for the preparation of specific plans and programs for the development of such regions;

(4) advise and assist the Secretary and the States concerned in the initiation and coordination of economic development districts, in order to promote maximum benefits from the expenditure of Federal, State, and local funds;

(5) promote increased private investment in such regions;

(6) prepare legislative and other recommendations with respect to both short-range and long-range programs and projects for Federal, State, and local agencies;

(7) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, and local planning in the region;

(8) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with Federal, State and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;

(9) review and study, in cooperation with the agency involved, Federal, State, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(10) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation, and work with State and local agencies in developing appropriate model legislation; and

(11) provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences.

(b) Transmittal and recommendation of plans and proposals.

The Secretary shall present such plans and proposals of the commissions as may be transmitted and recommended to him (but are not authorized by any other section of this chapter) first for review by the Federal agencies primarily interested in such plans and proposals and then, together with the recommendations of such agencies, to the President for such action as he may deem desirable.

(c) Liaison between Federal government and regional commissions.

The Secretary shall provide effective and continuing liaison between the Federal Government and each regional commission.

(d) Cooperation between Federal agencies and regional commissions.

Each Federal agency shall, consonant with law and within the limits of available funds, cooperate with such commissions as may be established in order to assist them in carrying out their functions under this section.

(e) Additional recommendations respecting expenditure of funds and necessary actions.

Each regional commission may, from time to time, make additional recommendations to the Secretary and recommendations to the State Governors and appropriate local officials, with respect to—

(1) the expenditure of funds by Federal, State, and local departments and agencies in its region in the fields of natural resources, agriculture, education, training, health and welfare, transportation, and other fields related to the purposes of this chapter; and

(2) such additional Federal, State, and local legislation or administrative actions as the commission deems necessary to further the purposes of this chapter.

(Pub. L. 89–136, title V, § 503, Aug. 26, 1965, 79 Stat. 565; Pub. L. 90–103, title II, § 201, Oct. 11, 1967, 81 Stat. 266.)

AMENDMENTS

1967—Subsec. (a)(2). Pub. L. 90–103 provided for development of a comprehensive long-range economic plan approved by the Secretary.

EX. ORD. NO. 11386. COORDINATION OF ACTIVITIES OF REGIONAL COMMISSIONS AND FEDERAL GOVERNMENT RELATING TO REGIONAL ECONOMIC DEVELOPMENT AND ESTABLISHMENT OF FEDERAL ADVISORY COUNCIL ON REGIONAL ECONOMIC DEVELOPMENT

Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, provided:

WHEREAS the proper discharge of Federal responsibilities under the Appalachian Regional Development Act of 1965 (79 Stat. 5, 40 U.S.C. App.) [Appendix A of Title 40, Public Buildings, Property and Works] and the Public Works and Economic Development Act of 1965 (79 Stat. 552, 42 U.S.C. 3121 *et seq.*) [this chapter], as amended by Public Law 90-103, 81 Stat. 257, requires that the participation of the Federal Government in regional development activities be effectively coordinated;

WHEREAS the President is required by the Appalachian Regional Development Act of 1965 to provide effective and continuing liaison between the Federal Government and the Appalachian Regional Commission;

WHEREAS the Secretary of Commerce has responsibility under the Public Works and Economic Development Act of 1965 for Federal economic development activities designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically distressed areas and regions of the Nation;

WHEREAS the Secretary of Commerce is directed by the Public Works and Economic Development Act of 1965 to coordinate the Federal Cochairmen appointed to regional commissions established before or after the date of that Act;

WHEREAS the Secretary of Commerce is required by the Public Works and Economic Development Act of 1965 to provide effective and continuing liaison between the Federal Government and each regional commission established under Title V of that Act [this subchapter]; and

WHEREAS the Secretary of Commerce has been Chairman of the President's Review Committee for Development Planning in Alaska, established to provide general direction and guidance to the Federal Field Committee for Development Planning in Alaska, established by Executive Order No. 11182, dated October 2, 1964:

NOW, THEREFORE, by virtue of the authority vested in me by the Appalachian Regional Development Act of 1965, the Public Works and Economic Development Act of 1965, and section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], and as President of the United States, it is ordered as follows:

SECTION 1. *Functions of the Secretary of Commerce.* The Secretary of Commerce shall—

(a) Provide the effective and continuing liaison required by section 104 of the Appalachian Regional Development Act of 1965 [section 104 of Appendix A of Title 40, Public Buildings, Property and Works] and by section 503(c) of the Public Works and Economic Development Act of 1965 [subsec. (c) of this section] between the Federal Government and each regional commission established under those Acts, and between the Federal Government and the Federal Field Committee for Development Planning in Alaska (hereinafter referred to as "the Field Committee").

(b) Obtain a coordinated review within the Federal Government of plans and recommendations submitted by the commissions and the Field Committee.

(c) Provide guidance and policy direction to the Federal Cochairmen and the Chairman of the Field Committee with respect to their Federal functions.

(d) Promote the effective coordination of the activities of the Federal Government relating to regional economic development.

(e) In carrying out the functions set forth in section 1 (a), (b), (c), and (d) the Secretary of Commerce shall—

(1) Review the regional economic development plans and programs submitted to him by the Federal Cochairmen, budgetary recommendations, the standards for development underlying those plans, programs and budgetary recommendations, and legislative recommendations; and advise the Federal Cochairmen of the Federal policy with respect to those matters, and where appropriate, submit recommendations to the Director of the Bureau of the Budget.

(2) Review and advise the Chairman of the Field Committee with respect to the tentative plans and recommendations of the Field Committee, and receive and consider the final plans and recommendations of the Field Committee and transmit them to the heads of interested Federal departments and agencies and to the President.

(3) Resolve any questions of policy which may arise between a Federal Cochairman and a Federal department or agency in the implementation of regional development programs.

(4) Appoint a Special Assistant and other staff as required to assist him in carrying out these functions.

SEC. 2. *Establishment of the Council.* (a) There is hereby established the Federal Advisory Council on Regional Economic Development, hereinafter referred to as "the Council."

(b) The Council shall be composed of the following members: The Secretary of Commerce, who shall be the Chairman of the Council (hereinafter referred to as "the Chairman"), the Secretary of Agriculture, the Secretary of the Army, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Director of the Office of Economic Opportunity, the Administrator of the Small Business Administration, the Federal Cochairman of the Appalachian Regional Commission, such Federal Cochairman as are appointed by the President under authority of Title V of the Public Works and Economic Development Act of 1965 [this subchapter], and the Chairman of the Field Committee.

(c) Whenever matters within the purview of the Council may be of interest to heads of Federal departments or agencies not represented on the Council under section 2(b) of this order, the Chairman may consult with the heads of such departments and agencies and may invite them to participate in meetings and deliberations of the Council.

(d) The Council shall meet at the call of the Chairman.

SEC. 3. *Functions of the Council.* The Council shall assist the Secretary of Commerce in carrying out the functions set forth in section 1 of this order, and shall, as requested by the Secretary of Commerce—

(a) Review proposed long-range economic development plans prepared by the regional commissions and the Field Committee.

(b) Recommend desirable development objectives and programs for such regions and Alaska.

(c) Review proposed designations of additional economic development regions under Title V of the Public Works and Economic Development Act of 1965 [this subchapter].

(d) Review Federal programs relating to regional economic development, develop basic policies and priorities with respect to such programs, and recommend administrative or legislative action needed to stimulate and further regional economic development.

(e) Review proposed department or agency regional economic development plans.

(f) Recommend surveys and studies needed to assist the Secretary of Commerce and the Council in carrying out their functions.

SEC. 4. *Responsibilities of Participating Federal Agencies* (a) Each Federal department and agency the head of which is referred to in section 2(b) of this order shall, as may be necesary, furnish assistance to the Council in accordance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134, 31 U.S.C. 691) [section 691 of Title 31, Money and Finance].

(b) The head of each such Federal department or agency shall designate an Assistant Secretary or equivalent level official who shall have primary and continuing responsibility for the participation and cooperation of that department or agency in regional economic development as required by this order.

(c) The head of each such Federal department or agency shall keep the Secretary of Commerce and the Council informed of all proposed regional economic development plans of his department or agency.

(d) The head of each such Federal department or agency shall, consonant with law and within the limits of avail-

able funds, cooperate with the Council and with the Secretary of Commerce in carrying out their functions under this order. Such cooperation shall include, as may be appropriate, (1) furnishing relevant available information, (2) making studies and preparing reports, (3) in connection with the development of programs, priorities, and operations of the department or agency, giving full consideration to any plans and recommendations for the economic development of the various regions, including recommendations made by the Council, and (4) advising on the work of the Council as the Chairman may from time to time request.

SEC. 5. *Responsibilities of the Federal Cochairmen and the Chairman of the Field Committee.* The Federal Cochairmen, and the Chairman of the Field Committee as appropriate, shall—

(a) Maintain continuing liaison with the Secretary of Commerce with respect to the activities of the regional commissions and the Field Committee.

(b) Adhere to general Federal policies affecting regional economic development that are established by the Secretary of Commerce.

(c) Inform the appropriate Federal departments and agencies of programs and projects to be considered by the commissions, and attempt to obtain a consensus within the Federal Government through consultation with appropriate Federal agency representatives before casting a vote on any such matter.

(d) Represent the participating Federal departments and agencies in connection with the activities of the regional commisisons.

(e) Submit to the Secretary of Commerce regional economic development plans and programs of the regional commissions, budgetary recommendations, legislative recommendations, and progress reports, as requested by the Secretary of Commerce, on the activities of the regional commissions.

(f) Submit reports required by section 304 of the Appalachian Regional Development Act of 1965 [section 304 of Appendix A of Title 40, Public Buildings, Property, and Works] and by section 510 of the Public Works and Economic Development Act of 1965 [section 3189 of this title] to the Secretary of Commerce for review prior to transmittal to the President or the Congress.

SEC. 6. *Appalachian Program.* (a) Funds appropriated pursuant to sections 201 and 401 of the Appalachian Regional Development Act of 1965 [sections 201 and 401 of Appendix A of Title 40, Public Buildings, Property and Works] shall be available to the Federal Cochairman of the Appalachian Regional Commission for the purposes of carrying out that Act.

(b) The Federal Cochairman of the Appalachian Regional Commission is delegated the functions conferred upon the President by sections 214(a), 302(a), and 302(c) of the Appalachian Regional Development Act of 1965 [sections 214(a), 302(a), and 302(c) of Appendix A of Title 40, Public Buildings, Property and Works], which shall be exercised by him in accordance with the provisions of this order.

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency, to the authority of the Council or the Secretary of Commerce, or as abrogating or restricting any such function in any manner.

SEC. 8. *Definition.* Except as the context may otherwise require, any reference herein to any Act, or to any provision of any Act, shall be deemed to be a reference thereto as amended from time to time.

SEC. 9. *Prior Executive Orders.* (a) Executive Order No. 11182, as amended, is hereby further amended as follows:

(1) By changing the heading of the order so as to read as follows: "ESTABLISHING THE FEDERAL FIELD COMMITTEE FOR DEVELOPMENT PLANNING IN ALASKA".

(2) By striking the words "the Housing and Home Finance Administrator" from section 1(b) and by inserting in lieu thereof the words "the Secretary of Housing and Urban Development, the Director of the Office of Economic Opportunity".

(3) By substituting the following for subsection (a) of section 2:

"(a) Subject to the general direction and guidance of the Secretary of Commerce, the Field Committee shall serve as the principal instrumentality for developing coordinated plans for Federal programs which contribute to economic and resources development in Alaska and for recommending appropriate action by the Federal Government to carry out such plans."

(4) By striking from sections 3(e) and 3(f) the words "Review Committee" and by inserting in lieu thereof the words "Secretary of Commerce".

(5) By revoking Part II, The President's Review Committee for Development Planning in Alaska, established by that Part, shall be deemed to be hereby abolished.

(6) By redesignating Part III and section 31 thereof as Part II and section 21, respectively.

(7) By redesignating Part IV and sections 41, 42, and 43 as Part III and sections 31, 32, and 33, respectively, and by striking from the redesignated section 33 the words "and the Review Committee".

(b) The Federal Development Committee for Appalachia, established by Excutive Order No. 11209 of March 25, 1965, is hereby abolished and that order is hereby revoked.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3211 of this title.

§ 3184. Program development criteria.

In developing recommendations for programs and projects for future regional economic development, and in establishing within those recommendations a priority ranking for such programs and projects, the Secretary shall encourage each regional commission to follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall regional development including its location in an area determined by the State to have a significant potential for growth;

(2) the population and area to be served by the project or class of projects including the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects which may be in competition for the same funds;

(5) the prospects that the project, on a continuing rather than a temporary basis, will improve the opportunities for employment, the average level of income, or the economic and social development of the area served by the project.

(Pub. L. 89–136, title V, § 504, Aug. 26, 1965, 79 Stat. 566.)

§ 3185. Technical and planning assistance to regional commissions.

(a) Staff cooperation; contracts; grants; implementation of programs.

(1) The Secretary is authorized to provide to the commissions technical assistance which would be useful in aiding the commissions to carry out their functions under this chapter and to develop recommendations and programs. Such assistance shall include studies and plans evaluating the needs of, and developing potentialities for, economic growth of such region, and research on improving the conservation and utilization of the human and

natural resources of the region, and planning, investigations, studies, demonstration projects, and training programs which will further the purposes of this chapter. Such assistance may be provided by the Secretary through members of his staff, through the payment of funds authorized for this section to other departments or agencies of the Federal Government, or through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grant-in-aid to the commissions. The Secretary, in his discretion, may require the repayment of assistance provided under this paragraph and prescribes the terms and conditions of such repayment.

(2) In carrying out their functions under this chapter the commissions are authorized to engage in planning, investigations, studies, demonstration projects, and training programs which will further the purposes of this chapter and which have been approved by the Secretary. Such activities may be carried out by the commissions through the payment of funds to departments, agencies, or instrumentalities of the Federal Government, or through the employment of private individuals, partnerships, firms, or corporations, or suitable institutions under contracts entered into for such purposes or through grants-in-aid to agencies of State or local governments. In the case of demonstration projects and training programs, to the maximum extent possible, such projects and programs shall be carried out through departments, agencies, or instrumentalities of the Federal Government or of State or local governments.

(b) Payment of administrative expenses; Federal and State share.

For the period ending on June 30 of the second full Federal fiscal year following the date of establishment of a commission, the administrative expenses of each commission as approved by the Secretary shall be paid by the Federal Government. Thereafter, such expenses shall be paid 50 per centum by the Federal Government and 50 per centum by the States in the region, except that the administrative expenses of the Federal cochairman, his alternate, and his staff shall be paid solely by the Federal Government. The share to be paid by each State shall be determined by the Commission. The Federal cochairman shall not participate or vote in such determination. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services.

(c) Limitation on expenditure of appropriated funds.

Not to exceed 10 per centum of the funds appropriated under authority of section 3188a(d) of this title for any fiscal year shall be expended in such fiscal year in carrying out subsection (a)(1) and subsection (b) of this section. (Pub. L. 89–136, title V, § 505, Aug. 26, 1965, 79 Stat. 566; Pub. L. 90–103, title II, § 202, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91–123, title II, § 203, Nov. 25, 1969, 83 Stat. 216.)

AMENDMENTS

1969—Subsec. (a)(1). Pub. L. 91–123, § 203(a), authorized the Secretary to provide technical assistance to the commissions for planning, investigations, studies, demonstration projects, and training programs which further the purposes of this chapter.

Subsec. (a)(2). Pub. L. 91–123, § 203(a), added par. (2).

Subsec. (b). Pub. L. 91–123, § 203(b), substituted provisions that 50 per centum of the incurred expenses be paid by the Federal Government and 50 per centum by the States in the region, that the share paid by each State be determined by the Commission, and that the Federal Cochairman not participate or vote in such determination, for provisions that not more than 50 per centum of the incurred expenses be paid by the Federal Government.

Subsec. (c). Pub. L. 91–123, § 203(c), substituted provisions that limited the Secretary's expenditures to not more than 10 per centum of the funds authorized to be appropriated under section 3188a (d) of this title for carrying out the activities specified under subsection (a)(1) and (b) of this section for provisions that authorized to be appropriated $15,000,000 for each of the fiscal years ending June 30, 1966, June 30, 1967, June 30, 1968, June 30, 1969, and June 30, 1970, and that an amount not to exceed $2,500,000 be allocated each fiscal year by the Secretary to each regional commission to carry out the purposes of this section.

1967—Subsec. (c). Pub. L. 90–103 limited to $2,500,000 the funds to be allocated each fiscal year by the Secretary to each regional commission to carry out the purposes of this section.

§ 3186. Administrative powers of regional commissions; headquarters of Federal cochairman.

(a) To carry out its duties under this chapter, each regional commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

(2) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the commission to carry out its functions, except that such compensation shall not exceed the salary of the alternate to the Federal cochairman on the commission and no member, alternate, officer, or employee of such commission, other than the Federal cochairman on the commission and his staff and his alternate, and Federal employees detailed to the commission under clause (3), shall be deemed a Federal employee for any purpose;

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with the commission such personnel within his administrative jurisdiction as the commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status;

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency;

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel, and the Civil Service Commission of the United States is authorized to contract with such commission for continued coverage of commission

employees, who at date of commission employment are Federal employees, in the retirement program and other employee benefit programs of the Federal Government;

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible;

(7) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation;

(8) maintain an office in the District of Columbia and establish field offices at such other places as it may deem appropriate; and

(9) take such other actions and incur such other expenses as may be necessary or appropriate.

(b) The Federal cochairman shall establish and at all times maintain his headquarters office in the District of Columbia. (Pub. L. 89-136, title V, § 506, Aug. 26, 1965, 79 Stat. 567; Pub. L. 91-123, title II, § 204, Nov. 25, 1969, 83 Stat. 217.)

AMENDMENTS

1969—Pub. L. 91-123 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3188 of this title and in title 5 section 5334.

§ 3187. Procurement of information; hearings; records.

In order to obtain information needed to carry out its duties, each regional commission shall—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a cochairman of such commission, or any member of the commission designated by the commission for the purpose, being hereby authorized to administer oaths when it is determined by the commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized, to the extent not otherwise prohibited by law) to furnish to such commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for public inspection.

(Pub. L. 89-136, title V, § 507, Aug. 26, 1965, 79 Stat. 568.)

§ 3188. Personal financial interests of commission personnel.

(a) Prohibited transactions and interests; penalty.

Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of a regional commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Exemption; full disclosure

Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the regional commission involved of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the commission may expect from such State member, alternate, officer, or employee.

(c) Supplementary salary prohibited; penalty.

No State member of a regional commission, or his alternate, shall receive any salary, or any contribution to or supplementation of salary for his services on such commission from any source other than his State. No person detailed to serve a regional commission under authority of clause (4) of section 3186 of this title shall receive any salary or any contribution to or supplementation of salary for his services on such commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from such commission. Any person who shall violate the provisions of this subsection shall be fined not more than $5,000, or imprisoned not more than one year, or both.

(d) Exemption for Federal cochairman and his alternate and Federal personnel detailed to duty.

Notwithstanding any other subsection of this section, the Federal cochairman and his alternate on a regional commission and any Federal officers or employees detailed to duty with it pursuant to clause (3) of section 3186 of this title shall not be subject to any such subsection but shall remain subject to sections 202 through 209 of Title 18.

(e) Rescission of contracts for prohibited personal financial interest.

A regional commission may, in its discretion, declare void and rescind any contract or other agreement pursuant to this chapter in relation to which

it finds that there has been a violation of subsection (a) or (c) of this section, or any of the provisions of sections 202 through 209 of Title 18. (Pub. L. 89–136, title V, § 508, Aug. 26, 1965, 79 Stat. 568.)

CODIFICATION

"Clause (3) of section 3186 of this title", referred to in subsec. (d), read "clause (3) of section 10" in the original. Since Pub. L. 89–136 contained no section 10 and Congress presumably intended a reference to section 506 thereof, reference was codified as section 3186 of this title, the section number given section 506 of Pub. L. 89–136 in codification.

§ 3188a. Supplements to Federal grant-in-aid programs.

(a) Program implementation; prerequisites for Federal contribution.

In order to enable the State and other entities within economic development regions established under this chapter to take maximum advantage of Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient funds available under the Federal grant-in-aid Act authorizing such programs to meet pressing needs of the region, the Secretary shall, once a comprehensive long-range economic plan established pursuant to clause (2) of section 3183 of this title is in effect, provide funds pursuant to specific recommendations, to each of the Federal cochairmen of the regional commissions heretofore or hereafter established under this subchapter, to be used for all or any portion of the basic Federal contribution to projects under such Federal grant-in-aid programs authorized by Federal grant-in-aid Acts, and for the purpose of increasing the Federal contribution to projects under such programs above the fixed maximum portion of the cost of such projects otherwise authorized by the applicable law. No program, or project authorized under this section shall be implemented until (1) applications and plans relating to the program or project have been determined by the responsible Federal official to be compatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this chapter, and (2) the Regional Commission involved has approved such program or project and has determined that it meets the applicable criteria under section 3184 of this title and will contribute to the development of the region, which determination shall be controlling. In the case of any program or project for which all or any portion of the basic Federal contribution to the project under a Federal grant-in-aid program is proposed to be made under this subsection, no such Federal contribution shall be made until the responsible Federal official administering the Federal grant-in-aid Act authorizing such contribution certifies that such program or project meets all of the requirements of such Federal grant-in-aid Act and could be approved for Federal contribution under such Act if funds were available under such Act for such program or project. Funds may be provided for programs and projects in a State under this subsection only if the Commission determines that the level of Federal and State financial assistance under subchapters of this chapter other than this subchapter, and under Acts other than this chapter, for the same type of programs or projects in that portion of the State within the region will not be diminished in order to substitute funds authorized by this subsection. Funds provided pursuant to this chapter shall be available without regard to any limitations on authorizations for appropriation in any other Act.

(b) Limitation on Federal contribution.

The Federal portion of such costs shall not be increased in excess of the percentages established by each commission, and shall in no event exceed 80 per centum thereof.

(c) "Federal grant-in-aid programs".

The term "Federal grant-in-aid programs" as used in this section means all Federal grant-in-aid programs in existence on or before December 31, 1970, assisting in the acquisition of land or the construction or equipment of facilities, including but not limited to grant-in-aid programs authorized by subchapter I of this chapter and by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; title VI of the Public Health Service Act; Vocational Education Act of 1963; Library Services Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; Higher Education Facilities Act of 1963; Land and Water Conservation Fund Act of 1965; and National Defense Education Act of 1958. The term shall not include any program in which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this section, and shall not be taken into account in the computation of allocations among the States made pursuant to any other provision of law.

(d) Authorization of appropriations.

There is authorized to be appropriated to the Secretary to carry out this subchapter, for the two-fiscal-year period ending June 30, 1971, to be available until expended, not to exceed $255,000,000. After deducting such amounts as are authorized to carry out subsections (a)(1) and (b) of section 3185 of this title, the Secretary shall apportion the remainder of the sums appropriated under this authorization for any fiscal year to the regional commissions, except that not less than 10 per centum nor more than 25 per centum of such remaining amount shall be allocated to any one regional commission. All amounts appropriated under this authorization for any fiscal year shall be apportioned by the Secretary to the regional commissions prior to the end of the fiscal year for which appropriated.

(e) Approval of application for grant.

An application for a grant under this section shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. Only applications for programs and projects which are approved by a State member as meeting the requirements for assistance under this section shall be approved for assistance. (Pub. L. 89–136, title V, § 509, as added Pub. L. 90–103, title II, § 203, Oct. 11,

1967, 81 Stat. 266, and amended Pub. L. 91–123, title II, § 205, Nov. 25, 1969, 83 Stat. 217; Pub. L. 91–258, title I, § 52(b)(2), May 21, 1970, 84 Stat. 235.)

REFERENCES IN TEXT

Federal Water Pollution Control Act, referred to in subsec. (c), is classified to section 466 et seq. of Title 33, Navigation and Navigable Waters.

Watershed Protection and Flood Prevention Act, referred to in subsec. (c), is classified to chapter 18 of Title 16, Conservation.

Title VI of the Public Health Service Act, referred to in subsec. (c), is classified to section 291 et seq. of this title.

Vocational Education Act of 1963, referred to in subsec. (c), is classified to section 1241 et seq. of Title 20, Education. See Short Title note set out under section 1241 of Title 20.

Library Services Act, referred to in subsec. (c), was renamed the Library Services and Construction Act by Pub. L. 88–269, 310(a), Feb. 11, 1964, 78 Stat. 16, and is classified to chapter 16 of Title 20.

Federal Airport Act, referred to in subsec. (c), was formerly classified to chapter 14 of Title 49, Transportation, was repealed by section 52(a) of Pub. L. 91–258, and is now covered by Airport and Airway Development Act of 1970, classified to chapter 25 of Title 49.

Airport and Airway Development Act of 1970, referred to in subsec. (c), is classified to chapter 25 of Title 49, Transportation.

Part IV of title III of the Communications Act of 1934, referred to in subsec. (c), is classified to sections 390—397 of Title 47, Telegraphs, Telephones, and Radiotelephones.

Higher Education Facilities Act of 1963, referred to in subsec. (c), is classified to chapter 21 of Title 20.

Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is classified to sections 460d and 460*l*–4 to 460*l*–11 of Title 16, and section 120 of Title 23, Highways.

National Defense Education Act of 1958, referred to in subsec. (c), is classified to section 401 et seq. of Title 20, and sections 1876—1879 of this title. See Short Title note set out under section 401 of Title 20.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–258 inserted "Airport and Airway Development Act of 1970;" after "Federal Airport Act;".

1969—Subsec. (a). Pub. L. 91–123, § 205(a), authorized the Secretary to provide funds, where sufficient funds where not available, to implement a program that could be authorized under a Federal grant-in-aid program, provided that the program was certified that it meets all of the requirements of a Federal grant-in-aid program, could be approved if sufficient funds were made available for such a program, and the level of Federal and State financial assistance to other programs within the region would not be diminished in order to substitute funds authorized pursuant to this subsection.

Subsec. (c). Pub. L. 91–123, § 205(b), substituted "in existence on or before December 31, 1970" for "in existence on or before December 31, 1967".

Subsec. (d). Pub. L. 91–123, § 205(c), substituted provisions authorizing to be appropriated $255,000,000 to the Secretary for the two-fiscal-year period ending June 30, 1971, to be available until expended, and requiring the Secretary to apportion the appropriated amount among the regional commissions in accordance with specified conditions, for provisions authorizing to be appropriated $5,000,000 for the period ending June 30, 1968, and $10,000,000 for the fiscal year ending June 30, 1969.

§ 3189. Annual reports to Congress.

Each regional commission established pursuant to this chapter shall make a comprehensive and detailed annual report each fiscal year to the Congress with respect to such commission's activities and recommendations for programs. The first such report shall be made for the first fiscal year in which such commission is in existence for more than three months. Such reports shall be printed and transmitted to the Congress not later than January 31 of the calendar year following the fiscal year with respect to which the report is made. (Pub. L. 89–136, title V, § 510, formerly § 509, Aug. 26, 1965, 79 Stat. 569, renumbered Pub. L. 90–103, title II, § 203, Oct. 11, 1967, 81 Stat. 266.)

RESPONSIBILITY OF FEDERAL COCHAIRMAN

Federal Cochairman of regional commission responsible for submitting report required by this section, see section 5(f) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of this title.

§ 3190. Coordination of activities between Secretary and Federal cochairmen in making grants and loans.

The Secretary shall coordinate his activities in making grants and loans under subchapters I and II of this chapter with those of each of the Federal cochairmen in making grants under this subchapter, and each Federal cochairman shall coordinate his activities in making grants under this subchapter with those of the Secretary in making grants and loans under subchapters I and II of this chapter. (Pub. L. 89–136, title V, § 511, as added Pub. L. 91–123, title II, § 206, Nov. 25, 1969, 83 Stat. 218.)

§ 3191. Federal Field Committee for Development Planning in Alaska; authorization of appropriations; establishment of regional commission for Alaska.

There is hereby authorized not to exceed $500,000 for the two-fiscal-year period ending June 30, 1971, to the Federal Field Committee for Development Planning in Alaska for the purpose of planning economic development programs and projects in Alaska in cooperation with the government of the State of Alaska. Nothing contained in this section shall be construed as precluding the establishment of a regional commission for Alaska. (Pub. L. 89–136, title V, § 512, as added Pub. L. 91–123, title II, § 206, Nov. 25, 1969, 83 Stat. 218.)

§ 3192. Regional transportation systems; investigations and studies of needs of economic development region; report to Congress; authorization of appropriations.

(a) The Secretary of Transportation, acting jointly with the regional commissions, is authorized to conduct and facilitate full and complete investigations and studies of the needs of the economic development regions established under this subchapter for regional transportation systems which will further the purposes of this chapter, and in connection therewith, to carry out such demonstration projects as he determines to be necessary to the conduct of such investigations and studies. The Secretary of Transportation shall report to Congress not later than January 10, 1971, the results of such investigations and studies together with his recommendations and those of each regional commission.

(b) There is authorized to be appropriated not to exceed $20,000,000 to carry out this section. Such amount shall be in addition to those sums otherwise authorized to be appropriated to carry out this subchapter. (Pub. L. 89–136, title V, § 513, as added Pub. L. 91–123, title II, § 206, Nov. 25, 1969, 83 Stat. 219.)

SUBCHAPTER VI.—ADMINISTRATION

§ 3201. Appointment of Assistant Secretary of Commerce and Administrator for Economic Development; compensation.

The Secretary shall administer this chapter and, with the assistance of an Assistant Secretary of Commerce, in addition to those already provided for, shall supervise and direct the Administrator created herein, and coordinate the Federal cochairmen appointed heretofore or subsequent to this chapter. The Assistant Secretary created by this section shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level IV of the Federal Executive Salary Schedule. Such Assistant Secretary shall perform such functions as the Secretary may prescribe. There shall be appointed by the President, by and with the advice and consent of the Senate, an Administrator for Economic Development who shall be compensated at the rate provided for level V of the Federal Executive Salary Schedule who shall perform such duties as are assigned by the Secretary. (Pub. L. 89–136, title VI, § 601(a), Aug. 26, 1965, 79 Stat. 569.)

REFERENCES IN TEXT

The Federal Executive Salary Schedule is set out in section 5311 et seq. of Title 5, Government Organization and Employees.

§ 3202. Advisory Committee on Regional Economic Development; membership; chairman; meetings.

The Secretary shall appoint a National Public Advisory Committee on Regional Economic Development which shall consist of twenty-five members and shall be composed of representatives of labor, management, agriculture, State and local governments, and the public in general. From the members appointed to such Committee the Secretary shall designate a Chairman. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of his duties under this chapter. Such Committee shall hold not less than two meetings during each calendar year. (Pub. L. 89–136, title VI, § 602, Aug. 26, 1965, 79 Stat. 570.)

§ 3203. Consultation of Secretary with other persons and agencies.

(a) The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

(b) The Secretary may make provision for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this chapter. (Pub. L. 89–136, title VI, § 603, Aug. 26, 1965, 79 Stat. 570.)

§ 3204. Administration, operation, and maintenance.

No Federal assistance shall be approved under this chapter unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained. (Pub. L. 89–136, title VI, § 604, as added Pub. L. 90–103, title II, § 204, Oct. 11, 1967, 81 Stat. 268.)

SUBCHAPTER VII.—MISCELLANEOUS

§ 3211. Powers of Secretary.

In performing his duties under this chapter, the Secretary is authorized to—

(1) adopt, alter, and use a seal, which shall be judicially noticed;

(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable;

(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this chapter; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

(4) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with loans made or evidences of indebtedness purchased under this chapter, and collect or compromise all obligations assigned to or held by him in connection with such loans or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection;

(5) further extend the maturity of or renew any loan made or evidence of indebtedness purchased under this chapter, beyond the periods stated in such loan or evidence of indebtedness or in this chapter, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan or evidence of indebtedness;

(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to, or otherwise acquired by, him in connection with loans made or evidences of indebtedness purchased under this chapter;

(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to him in connection with loans made or evidences of indebtedness purchased under this chapter. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Secretary. Section 5 of Title 41 shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of loans made or evidences of indebtedness

purchased under this chapter if the premium therefor or the amount thereof does not exceed $1,000. The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this chapter may be exercised by the Secretary or by any officer or agent appointed by him for that purpose without the execution of any express delegation of power or power of attorney;

(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in sections 3141, 3142, 3151, 3171, and 3183 of this title;

(9) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans made or evidences of indebtedness purchased under this chapter;

(10) employ experts and consultants or organizations therefor as authorized by section 55a of Title 5, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 73b–2 of Title 5 for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually;

(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this chapter from the application of sections 507(b) and 2679 of Title 28 and section 316 of Title 5; and

(12) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this chapter.

(Pub. L. 89–136, title VII, § 701, Aug. 26, 1965, 79 Stat. 570.)

REFERENCES IN TEXT

Section 73b–2 of Title 5, referred to in par. (10), was repealed in the general revision of Title 5, and the provisions are now covered by section 5703 of Title 5, Government Organization and Employees.

Section 55a of Title 5, referred to in par. (10), was repealed in the general revision of Title 5, and the provisions are now covered by section 3109 of Title 5.

Section 316 of Title 5, referred to in par. (11), was repealed in the general revision of Title 5, and the provisions are now covered by section 517 of Title 28, Judiciary and Judicial Procedure.

FUNCTIONS OF SECRETARY

Functions of the Secretary relating to coordination of activities of regional commissions and the Federal Government, see section 1 of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3141, 3142, 3151 of this title.

§ 3212. Prevention of unfair competition.

No financial assistance under this chapter shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, material, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises. (Pub. L. 89–136, title VII, § 702, Aug. 26, 1965, 79 Stat. 572.)

§ 3213. Saving provisions.

(a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer of the Area Redevelopment Administration in his official capacity or in relation to the discharge of his official duties under the Area Redevelopment Act, shall abate by reason of the taking effect of the provisions of this chapter, but the court may, on motion or supplemental petition filed at any time within twelve months after such taking effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the Secretary or the Administrator or such other officer of the Department of Commerce as may be appropriate.

(b) Except as may be otherwise expressly provided in this chapter, all powers and authorities conferred by this chapter shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to August 26, 1965, by any agency, officer, or office pertaining to any functions, powers, and duties under the Area Redevelopment Act shall continue in full force and effect after August 26, 1965, until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate. (Pub. L. 89–136, title VII, § 703, Aug. 26, 1965, 79 Stat. 572.)

REFERENCES IN TEXT

The Area Redevelopment Act, referred to in text, was Pub. L. 87–27, May 1, 1961, 75 Stat. 47, formerly classified to chapter 28 of this title, and was omitted from the Code as executed. The provisions are now covered by this chapter.

§ 3214. Transfer of functions of Area Redevelopment Administration.

(a) Functions; powers; duties.

The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 2525

(b) of this title, and all functions, powers, duties, and authorities under section 2525(c) of this title are hereby vested in the Secretary.

(b) Designation of interim Administrator.

The President may designate a person to act as Administrator under this chapter until the office is filled as provided in this chapter or until the expiration of the first period of sixty days following August 26, 1965, whichever shall first occur. While so acting such person shall receive compensation at the rate provided by this chapter for such office.

(c) Effective date of chapter.

The provisions of this chapter shall take effect on August 26, 1965 unless herein explicitly otherwise provided.

(d) Extension of project eligibility.

Notwithstanding any requirements of this chapter relating to the eligibility of areas, projects for which applications are pending before the Area Redevelopment Administration on August 26, 1965 shall for a period of one year thereafter be eligible for consideration by the Secretary for such assistance under the provisions of this chapter as he may determine to be appropriate.

(e) Limitation on assistance.

No financial assistance authorized under this chapter shall be used to finance the cost of facilities for the generation, transmission, or distribution of electric energy, except on projects specifically authorized by the Congress, or to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed). (Pub. L. 89–136, title VII, § 704, Aug. 26, 1965, 79 Stat. 572.)

§ 3215. Separability of provisions.

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this chapter or the application thereof to any persons or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other persons and circumstances, but shall be confined in its operation to the provision of this chapter or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. (Pub. L. 89–136, title VII, § 705, Aug. 26, 1965, 79 Stat. 573.)

§ 3216. Definitions.

As used in this chapter, the terms "State", "States", and "United States" include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. (Pub. L. 89–136, title VII, § 706, Aug. 26, 1965, 79 Stat. 573.)

§ 3217. Annual report to Congress.

The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this chapter for each fiscal year beginning with the fiscal year ending June 30, 1966. Such report shall be printed and shall be transmitted to the Congress not later than January 3 of the year following the fiscal year with respect to which such report is made. (Pub. L. 89–136, title VII, § 707, Aug. 26, 1965, 79 Stat. 573.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3151 of this title.

§ 3218. Use of other facilities.

(a) Delegation and redelegation of functions to other Federal departments and agencies.

The Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of the Secretary's functions, powers, and duties under this chapter as he may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

(b) Department and agency execution of delegated authority.

Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this chapter.

(c) Transfer of funds.

Funds authorized to be appropriated under this chapter may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated. (Pub. L. 89–136, title VII, § 708, Aug. 26, 1965, 79 Stat. 573.)

§ 3219. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out those provisions of the chapter for which specific authority for appropriations is not otherwise provided in this chapter. Appropriations authorized under this chapter shall remain available until expended unless otherwise provided by appropriations Acts. (Pub. L. 89–136, title VII, § 709, Aug. 26, 1965, 79 Stat. 574.)

§ 3220. Penalties.

(a) False statements; security overvaluation.

Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under section 3131, 3141, 3142, or 3171 of this title or any extension thereof by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary, or for the purpose of obtaining money, property, or anything of value, under this chapter, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

(b) Embezzlement; misapplication of funds; false book entries; schemes to defraud; speculation.

Whoever, being connected in any capacity with the Secretary, in the administration of this chapter (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to him or pledged or otherwise entrusted to him, or (2) with intent to defraud the Secretary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any

false entry in any book, report, or statement of or to the Secretary, or without being duly authorized draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary, or (4) gives any unauthorized information concerning any future action or plan of the Secretary which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. (Pub. L. 89–136, title VII, § 710, Aug. 26, 1965, 79 Stat. 574.)

§ 3221. Employment of expediters and administrative employees.

No financial assistance shall be extended by the Secretary under section 3131, 3141, 3142, or 3171 of this title to any business enterprise unless the owners, partners, or officers of such business enterprise (1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Secretary for assistance of any sort, under this chapter, and the fees paid or to be paid to any such person; and (2) execute an agreement binding such business enterprise, for a period of two years after such assistance is rendered by the Secretary to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the granting of assistance under this chapter. (Pub. L. 89–136, title VII, § 711, Aug. 26, 1965, 79 Stat. 574.)

§ 3222. Labor standards; rate of wages; assurance of maintenance of standards; enforcement.

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not extend any financial assistance under section 3131, 3141, 3142, or 3171 of this title for such a project without first obtaining adequate assurance that these labor standards will be maintained upon the contruction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (Pub. L. 89–136, title VII, § 712, Aug. 26, 1965, 79 Stat. 575.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorg. Plan No. 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3223. Maintenance of records of approved applications for financial assistance; public inspection.

The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for financial assistance under section 3131, 3141, 3142, or 3171 of this title, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved; (1) the name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof, (2) the amount and duration of the loan or grant for which application is made, (3) the purposes for which the proceeds of the loan or grant are to be used, and (4) a general description of the security offered in the case of a loan. (Pub. L. 89–136, title VII, § 713, Aug. 26, 1965, 79 Stat. 575.)

§ 3224. Records and audit.

(a) Prescribed record keeping by recipients; full disclosure.

Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access to books for examination and audit.

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this chapter. (Pub. L. 89–136, title VII, § 714, Aug. 26, 1965, 79 Stat. 575.)

§ 3225. Extension of benefits made available under other Federal programs.

All benefits heretofore specifically made available (and not subsequently revoked) under other Federal programs to persons or to public or private organizations, corporations, or entities in areas designated by the Secretary as "redevelopment areas" under section 2504 of this title, are hereby also extended, insofar as practicable, to such areas as may be designated as "redevelopment areas" or "economic development centers" under the authority of section 3161 or 3171 of this title: *Provided, however,* That this section shall not be construed as limiting such administrative discretion as may have been conferred under any other law. (Pub. L. 89–136, title VII, § 715, Aug. 26, 1965, 79 Stat. 575.)

§ 3226. Prohibition against a statutory construction which might cause diminution in other Federal assistance.

All financial and technical assistance authorized under this chapter shall be in addition to any Federal assistance previously authorized, and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this chapter would otherwise be entitled under the provisions of any other Act. (Pub. L. 89-136, title VII, § 716, Aug. 26, 1965, 79 Stat. 576.)

Chapter 39.—SOLID WASTE DISPOSAL

Sec.
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§ 3251. Congressional findings and declaration of purpose.

(a) The Congress finds—

(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass of material discarded by the purchaser of such products;

(2) that the economic and population growth of our Nation, and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

(3) that the continuing concentration of our population in expanding metropolitan and other urban areas has presented these communities with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;

(4) that inefficient and improper methods of disposal of solid wastes result in scenic blights, create serious hazards to the public health, including pollution of air and water resources, accident hazards, and increase in rodent and insect vectors of disease, have an adverse effect on land values, create public nuisances, otherwise interfere with community life and development;

(5) that the failure or inability to salvage and reuse such materials economically results in the unnecessary waste and depletion of our natural resources; and

(6) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

(b) The purposes of this chapter therefore are—

(1) to promote the demonstration, construction, and application of solid waste management and resource recovery systems which preserve and enhance the quality of air, water, and land resources;

(2) to provide technical and financial assistance to States and local governments and interstate agencies in the planning and development of resource recovery and solid waste disposal programs;

(3) to promote a national research and development program for improved management techniques, more effective organizational arrange-

ments, and new and improved methods of collection, separation, recovery, and recycling of solid wastes, and the environmentally safe disposal of nonrecoverable residues;

(4) to provide for the promulgation of guidelines for solid waste collection, transport, separation, recovery, and disposal systems; and

(5) to provide for training grants in occupations involving the design, operation, and maintenance of solid waste disposal systems.

(Pub. L. 89–272, title II, § 202, Oct. 20, 1965, 79 Stat. 997; Pub. L. 91–512, title I, § 101, Oct. 26, 1970, 84 Stat. 1227.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–512 added provisions setting forth purposes of this chapter as that of promoting recycling, local planning, and training functions.

SHORT TITLE

Section 1 of Pub. L. 91–512 provided "That this Act [enacting sections 3253a, and 3254a to 3254f of this title, amending this section and sections 3252, 3253, 3258 and 3259 of this title, repealing section 3255 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Resource Recovery Act of 1970'."

Section 201 of Pub. L. 89–272 provided that title II of Pub. L. 89–272, which enacted this chapter, may be cited as the "Solid Waste Disposal Act."

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

NATIONAL COMMISSION ON MATERIALS POLICY

Sections 210–206 of Pub. L. 91–512 provided that:

"SEC. 201. [Short Title] This title may be cited as the 'National Materials Policy Act of 1970'.

"SEC. 202. [Declaration of purpose] It is the purpose of this title to enhance environmental quality and conserve materials by developing a national materials policy to utilize present resources and technology more efficiently, to anticipate the future materials requirements of the Nation and the world, and to make recommendations on the supply, use, recovery, and disposal of materials.

"SEC. 203. [Establishment; composition; Chairman; compensation] (a) There is hereby created the National Commission on Materials Policy (hereafter referred to as the ('Commission') which shall be composed of seven members chosen from Government service and the private sector for their outstanding qualifications and demonstrated competence with regard to matters related to materials policy, to be appointed by the President with the advice and consent of the Senate, one of whom he shall designate as Chairman.

"(b) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"SEC. 204. [Duties and powers; report; termination] The Commission shall make a full and complete investigation and study for the purpose of developing a national materials policy which shall include, without being limited to, a determination of—

"(1) national and international materials requirements, priorities, and objectives, both current and future, including economic projections;

"(2) the relationship of materials policy to (A) national and international population size and (B) the enhancement of environmental quality;

"(3) recommended means for the extraction, development, and use of materials which are susceptible to recycling, reuse, or self-destruction, in order to enhance environmental quality and conserve materials;

"(4) means of exploiting existing scientific knowledge in the supply, use, recovery, and disposal of materials and encouraging further research and education in this field;

"(5) means to enhance coordination and cooperation among Federal departments and agencies in materials usage so that such usage might best serve the national materials policy;

"(6) the feasibility and desirability of establishing computer inventories of national and international materials requirements, supplies, and alternatives; and

"(7) which Federal agency or agencies shall be assigned continuing responsibility for the implementation of the national materials policy.

"(b) In order to carry out the purposes of this title, the Commission is authorized—

"(1) to request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

"(2) to appoint and fix the compensation of such staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates; and

"(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem.

"(c) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations no later than June 30, 1973, and shall terminate not later than ninety days after submission of such report.

"(d) Upon request by the Commission, each Federal department and agency is authorized and directed to furnish, to the greatest extent practicable, such information and assistance as the Commission may request.

"SEC. 205. [Definition] When used in this title, the term 'materials' means natural resources intended to be utilized by industry for the production of goods, with the exclusion of food.

"SEC. 206. [Authorization of appropriations] There is hereby authorized to be appropriated the sum of $2,000,000 to carry out the provisions of this title."

§ 3252. Definitions.

When used in this chapter—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare; except that such term means the Secretary of the Interior with respect to problems of solid waste resulting from the extraction, processing, or utilization of minerals or fossil fuels where the generation, production, or reuse of such waste is or may be controlled within the extraction, processing, or utilization facility or facilities and where such control is a feature of the technology or economy of the operation of such facility or facilities.

(2) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) The term "interstate agency" means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

(4) The term "solid waste" means garbage, refuse, and other discarded solid materials, including solid-waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

(5) The term "solid-waste disposal" means the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

(6) The term "construction", with respect to any project of construction under this chapter, means (A) the erection or building of new structures and acquisition of lands or interests therein, or the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures, and (B) the acquisition and installation of initial equipment of, or required in connection with, new or newly acquired structures or the expanded, remodeled, altered, modernized or extended part of existing structures (including trucks and other motor vehicles, and tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project; and includes preliminary planning to determine the economic and engineering feasibility and the public health and safety aspects of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, and any surveys, designs, plans, working drawings, specifications, and other action necessary for the carrying out of the project, and (C) the inspection and supervision of the process of carrying out the project to completion.

(7) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law with responsibility for the planning or administration of solid waste disposal, or an Indian tribe.

(8) The term "intermunicipal agency" means an agency established by two or more municipalities with responsibility for planning or administration of solid waste disposal.

(9) The term "recovered resources" means materials or energy recovered from solid wastes.

(10) The term "resource recovery system" means a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.

(Pub. L. 89–272, title II, § 203, Oct. 20, 1965, 79 Stat. 998; Pub. L. 91–512, title I, § 102, Oct. 26, 1970, 84 Stat. 1228.)

AMENDMENTS

1970—Pars. (7)–(10). Pub. L. 91–512 added pars. (7)–(10).

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Envirinmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 3253. Research, demonstrations, training and other activities.

(a) Authority of Secretary to conduct; encouragement, etc., of public and private agencies in the conduct of.

The Secretary shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to—

(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

(2) the operation and financing of solid waste disposal programs;

(3) the reduction of the amount of such waste and unsalvageable waste materials;

(4) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes; and

(5) the identification of solid waste components and potential materials and energy recoverable from such waste components.

(b) Collection and dissemination of information; cooperation with public or private agencies; grants-in-aid; contracts.

In carrying out the provisions of the preceding subsection, the Secretary is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of, and other information pertaining to, such research and other activities, including appropriate recommendations in connection therewith;

(2) cooperate with public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and the conduct of such research and other activities; and

(3) make grants-in-aid to public or private agencies and institutions and to individuals for research, training projects, surveys, and demonstrations (including construction of facilities), and provide for the conduct of research, training, surveys, and demonstrations by contract with public

or private agencies and institutions and with individuals; and such contracts for research or demonstrations or both (including contracts for construction) may be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in section 2353 of Title 10, except that the determination, approval, and certification required thereby shall be made by the Secretary.

(c) Provisions of grants or contracts to insure availability of information, uses, processes and patents; use of and adherence to Statement of Government Patent Policy.

Any grant, agreement, or contract made or entered into under this section shall contain provisions effective to insure that all information, uses, processes, patents and other developments resulting from any activity undertaken pursuant to such grant, agreement, or contract will be made readily available on fair and equitable terms to industries utilizing methods of solid-waste disposal and industries engaging in furnishing devices, facilities, equipment, and supplies to be used in connection with solid-waste disposal. In carrying out the provisions of this section, the Secretary and each department, agency, and officer of the Federal Government having functions or duties under this chapter shall make use of and adhere to the Statement of Government Patent Policy which was promulgated by the President in his memorandum of October 10, 1963. (3 CFR, 1963 Supp., p. 238.) (Pub. L. 89–272, title II, § 204, Oct. 20, 1965, 79 Stat. 998; Pub. L. 91–512, title I, § 103, Oct. 26, 1970, 84 Stat. 1228.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–512, § 103(a), added provisions relating to the recovery of usable materials or energy from solid waste, new and improved methods of solid waste collection, adverse health and welfare effects of the release into the environment of material present in solid waste along with methods to eliminate such effects, and the identification of solid waste components and potential materials and energy recoverable from such waste components.

Subsec. (d). Pub. L. 91–512, § 103(b), repealed subsec. (d) which limited the amount of any grant from the United States to two-thirds of the cost of construction of any facility under this chapter.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3253a of this title.

§ 3253a. Recovery of useful energy and materials.

(a) Special study; report to the President and the Congress.

The Secretary shall carry out an investigation and study to determine—

(1) means of recovering materials and energy from solid waste, recommended uses of such materials and energy for national or international welfare, including identification of potential markets for such recovered resources, and the impact of distribution of such resources on existing markets;

(2) changes in current product characteristics and production and packaging practices which would reduce the amount of solid waste;

(3) methods of collection, separation, and containerization which will encourage efficient utilization of facilities and contribute to more effective programs of reduction, reuse, or disposal of wastes;

(4) the use of Federal procurement to develop market demand for recovered resources;

(5) recommended incentives (including Federal grants, loans, and other assistance) and disincentives to accelerate the reclamation or recycling of materials from solid wastes, with special emphasis on motor vehicle hulks;

(6) the effect of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of materials, and the likely effect of the modification or elimination of such incentives and disincentives upon the reuse, recycling, and conservation of such materials; and

(7) the necessity and method of imposing disposal or other charges on packaging, containers, vehicles, and other manufactured goods, which charges would reflect the cost of final disposal, the value of recoverable components of the item, and any social costs associated with nonrecycling or uncontrolled disposal of such items.

The Secretary shall from time to time, but not less frequently than annually, report the results of such investigation and study to the President and the Congress.

(b) Demonstration projects.

The Secretary is also authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a) of this section.

(c) Applicability of other sections.

Section 3253 (b) and (c) of this title shall be applicable to investigations, studies, and projects carried out under this section. (Pub. L. 89–272, title II, § 205, as added Pub. L. 91–512, title I, § 104(a), Oct. 26, 1970, 84 Stat. 1228.)

§ 3254. Encouragement of interstate and interlocal cooperation.

The Secretary shall encourage cooperative activities by the States and local governments in connection with solid-waste disposal programs; encourage, where practicable, interstate, interlocal, and regional planning for, and the conduct of, interstate,

interlocal, and regional solid-waste disposal programs; and encourage the enactment of improved and, so far as practicable, uniform State and local laws governing solid-waste disposal. (Pub. L. 89–272, title II, § 206, formerly § 205, Oct. 20, 1965, 79 Stat. 999, renumbered Pub. L. 91–512, title I, § 104 (a), Oct. 26, 1970, 84 Stat. 1228.)

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waster Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insoas the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 3254a. Grants for State, interstate, and local planning.

(a) Authorization.

The Secretary may from time to time, upon such terms and conditions consistent with this section as he finds appropriate to carry out the purposes of this chapter, make grants to State, interstate, municipal, and intermunicipal agencies, and organizations composed of public officials which are eligible for assistance under section 461(g) of Title 40, of not to exceed 66⅔ per centum of the cost in the case of an application with respect to an area including only one municipality, and not to exceed 75 per centum of the cost in any other case, of—

(1) making surveys of solid waste disposal practices and problems within the jurisdictional areas of such agencies and

(2) developing and revising solid waste disposal plans as part of regional environmental protection systems for such areas, providing for recycling or recovery of materials from wastes whenever possible and including planning for the reuse of solid waste disposal areas and studies of the effect and relationship of solid waste disposal practices on areas adjacent to waste disposal sites,

(3) developing proposals for projects to be carried out pursuant to section 3254b of this title, or

(4) planning programs for the removal and processing of abandoned motor vehicle hulks.

(b) Application; contents.

Grants pursuant to this section may be made upon application therefor which—

(1) designates or establishes a single agency which may be an interdepartmental agency) as the sole agency for carrying out the purposes of this section for the area involved;

(2) indicates the manner in which provision will be made to assure full consideration of all aspects of planning essential to areawide planning for proper and effective solid waste disposal consistent with the protection of the public health and welfare, including such factors as population growth, urban and metropolitan development, land use planning, water pollution control, air pollution control, and the feasibility of regional disposal and resource recovery programs;

(3) sets forth plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this section;

(4) provides for submission of such reports of the activities of the agency in carrying out the purposes of this section, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this section and for keeping such records and affording such access thereto as he may find necessary; and

(5) provides for such fiscal-control and fund-accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the agency under this section.

(c) Coordination of solid waste disposal planning with other planning activities.

The Secretary shall make a grant under this section only if he finds that there is satisfactory assurance that the planning of solid waste disposal will be coordinated, so far as practicable, with and not duplicate other related State, interstate, regional, and local planning activities, including those financed in part with funds pursuant to section 461 of Title 40. (Pub. L. 89–272, title II § 207, as added Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1229.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3254b, 3254d of this title.

§ 3254b. Grants for resource recovery systems and improved solid waste disposal facilities.

(a) Authorization.

The Secretary is authorized to make grants pursuant to this section to any State, municipal, or interstate or intermunicipal agency for the demonstration of resource recovery systems or for the construction of new or improved solid waste disposal facilities.

(b) Conditions of grant for the demonstration of a resource recovery system; Federal share.

(1) Any grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of section 3254a(b)(2) of this title; (B) is consistent with the guidelines recommended pursuant to section 3254c of this title; (C) is designed to provide areawide resource recovery systems consistent with the purposes of this chapter, as determined by the Secretary, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

(2) The Federal share for any project to which paragraph (1) applies shall not be more than 75 percent.

(c) Conditions of grant for construction of solid waste disposal facility; Federal share.

(1) A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Secretary for the purposes of this chapter, and (iii) is consistent with the guidelines recommended under section 3254c of this title, and

(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 percent in the case of a project serving an area which includes only one municipality, and not more than 75 percent in any other case.

(d) Establishment of procedure for awarding grants; considerations in making grants.

(1) The Secretary, within ninety days after Oct. 26, 1970, shall promulgate regulations establishing a procedure for awarding grants under this section which—

(A) provides that projects will be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions; and

(B) provides deadlines for submission of, and action on, grant requests.

(2) In taking action on applications for grants under this section, consideration shall be given by the Secretary (A) to the public benefits to be derived by the construction and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); (C) to the potential of such project for general application to community solid waste disposal problems; and (D) to the use by the applicant of comprehensive regional or metropolitan area planning.

(e) Terms and conditions; non-Federal share.

A grant under this section—

(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b)(1) of this section applies, the first-year operation and maintenance costs;

(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1)(B) for operating or maintenance costs;

(3) may not be made until the applicant has made provision satisfactory to the Secretary for proper and efficient operation and maintenance of the project (subject to paragraph (1)(B)); and

(4) may be made subject to such conditions and requirements, in addition to those provided in this section, as the Secretary may require to properly carry out his functions pursuant to this chapter.

For purposes of paragraph (1), the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Secretary.

(f) Limitation on grants.

(1) Not more than 15 percent of the total of funds authorized to be appropriated under section 3259(a)(3) of this title for any fiscal year to carry out this section shall be granted under this section for projects in any one State.

(2) The Secretary shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State. (Pub. L. 89–272, title II, § 208, as added Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1230.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3254a, 3259 of this title.

§ 3254c. Recommendation by Secretary of guidelines; publication in Federal Register; recommendation by Secretary of model codes, ordinances, and statutes; issuance of information to appropriate agencies.

(a) The Secretary shall, in cooperation with appropriate State, Federal, interstate, regional, and local agencies, allowing for public comment by other interested parties, as soon as practicable after October 26, 1970, recommended to appropriate agencies and publish in the Federal Register guidelines for solid waste recovery, collection, separation, and disposal systems (including systems for private use), which shall be consistent with public health and welfare, and air and water quality standards and adaptable to appropriate land-use plans. Such guidelines shall apply to such systems whether on land or water and shall be revised from time to time.

(b)(1) The Secretary shall, as soon as practicable, recommend model codes, ordinances, and statutes which are designed to implement this section and the purposes of this chapter.

(2) The Secretary shall issue to appropriate Federal, interstate, regional, and local agencies information on technically feasible solid waste collection, separation, disposal, recycling, and recovery methods, including data on the cost of construction, operation, and maintenance of such methods. (Pub. L. 89–272, title II, § 209, as added Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1232.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3254b, 3254e of this title.

§ 3254d. Grants to or contracts with eligible organization.

(a) Authorization.

The Secretary is authorized to make grants to, and contracts with, any eligible organization. For purposes of this section the term "eligible organization" means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out

a project which may be funded by grant under subsection (b) of this section.

(b) Training projects; application; contents.

(1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Secretary, of any project operated or to be operated by an eligible organization, which is designed—

(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resource recovery equipment and facilities; or

(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it provides for the same procedures and reports (and access to such reports and to other records) as is required by section 3254a(b) (4) and (5) of this title with respect to applications made under such section.

(c) Investigation and study by Secretary; report to the President and the Congress.

The Secretary shall make a complete investigation and study to determine—

(1) the need for additional trained State and local personnel to carry out plans assisted under this chapter and other solid waste and resource recovery programs;

(2) means of using existing training programs to train such personnel; and

(3) the extent and nature of obstacles to employment and occupational advancement in the solid waste disposal and resource recovery field which may limit either available manpower or the advancement of personnel in such field.

He shall report the results of such investigation and study, including his recommendations to the President and the Congress not later than one year after October 26, 1970. (Pub. L. 89–272, title II, § 210, as added Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1232.)

§ 3254e. Applicability of solid waste disposal guidelines to Executive agencies.

(a)(1) If—

(A) an Executive agency (as defined in section 105 of Title 5) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 3254c of this title and the purposes of this chapter in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

(2) Each Executive agency which conducts any activity—

(A) which generates solid waste, and

(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this chapter in conducting such activity.

(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this chapter in the disposal of such waste.

(4) The President shall prescribe regulations to carry out this subsection.

(b) Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 3254c of this title and the purposes of this chapter. (Pub. L. 89–272, title II, § 211, as added Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1233.)

§ 3254f. National disposal sites study for the storage and disposal of hazardous wastes.

The Secretary shall submit to the Congress no later than two years after October 26, 1970, a comprehensive report and plan for the creation of a system of national disposal sites for the storage and disposal of hazardous wastes, including radioactive, toxic chemical, biological, and other wastes which may endanger public health or welfare. Such report shall include: (1) a list of materials which should be subject to disposal in any such site; (2) current methods of disposal of such materials; (3) recommended methods of reduction, neutralization, recovery, or disposal of such materials; (4) an inventory of possible sites including existing land or water disposal sites operated or licensed by Federal agencies; (5) an estimate of the cost of developing and maintaining sites including consideration of means for distributing the short- and long-term costs of operating such sites among the users thereof; and (6) such other information as may be appropriate. (Pub. L. 89–272, title II, § 212, as added Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1233.)

§ 3255. Repealed. Pub. L. 91–512, title I, § 104(a), Oct. 26, 1970, 84 Stat. 1228.

Section, Pub. L. 89–272, title II, § 206, Oct. 20, 1965, 79 Stat. 999, authorized grants to State and interstate agencies for surveys of solid-waste disposal practices and problems, and for the development of solid-waste disposal plans.

§ 3256. Labor standards.

No grant for a project of construction under this chapter shall be made unless the Secretary finds

that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended, will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of Title 40. (Pub. L. 89–272, title II, § 213, formerly § 207, Oct. 20, 1965, 79 Stat. 1000, renumbered Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1229.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in the text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in the text, is set out in the Appendix to Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Halth, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 3257. Authorities and responsibilities under other laws not affected.

This chapter shall not be construed as superseding or limiting the authorities and responsibilities, under any other provisions of law, of the Secretary of Health, Education, and Welfare, the Secretary of the Interior, or any other Federal officer, department, or agency. (Pub. L. 89–272, title II, § 214, formerly § 208, Oct. 20, 1965, 79 Stat. 1000, renumbered Pub. L. 91–512, title I, § 104(b), Oct. 26, 1970, 84 Stat. 1229.)

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 3258. General provisions.

(a) Payments of grants under this chapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary may determine.

(b) No grant may be made under this chapter to any private profitmaking organization. (Pub. L. 89–272, title II, § 215, formerly § 209, Oct. 20, 1965, 79 Stat. 1001, renumbered and amended Pub. L. 91–512, title I, § 104(b), (c), Oct. 26, 1970, 84 Stat. 1229, 1233, 1234.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–512, § 104(c), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 91–512, § 104(c) added subsec. (b).

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ——, transferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

§ 3259. Authorization of appropriations.

(a)(1) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare for carrying out the provisions of this chapter (including, but not limited to, section 3254b of this title), not to exceed $41,500,000 for the fiscal year ending June 30, 1971.

(2) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out the provisions of this chapter, other than section 3254b of this title, not to exceed $72,000,000 for the fiscal year ending June 30, 1972, and not to exceed $76,000,000 for the fiscal year ending June 30, 1973.

(3) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out section 3254b of this title not to exceed $80,000,000 for the fiscal year ending June 30, 1972, and not to exceed $140,000,000 for the fiscal year ending June 30, 1973.

(b) There are authorized to be appropriated to the Secretary of the Interior to carry out this chapter not to exceed $8,750,000 for the fiscal year ending June 30, 1971, not to exceed $20,000,000 for the fiscal year ending June 30, 1972, and not to exceed $22,500,000 for the fiscal year ending June 30, 1973. Prior to expending any funds authorized to be appropriated by this subsection, the Secretary of the Interior shall consult with the Secretary of Health, Education, and Welfare to assure that the expenditure of such funds will be consistent with the purposes of this chapter.

(c) Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this chapter for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this chapter.

(d) Sums appropriated under this section shall remain available until expended. (Pub. L. 89–272, title II, § 216, formerly § 210, Oct. 20, 1965, 79 Stat. 1001; Pub. L. 90–574, title V, § 506, Oct. 15, 1968, 82 Stat. 1013; renumbered and amended Pub. L. 91–512, title I, §§ 104(b), 105, Oct. 26, 1970, 84 Stat. 1229, 1234.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–512, § 105, struck out provisions authorizing to be appropriated to the Secretary of Health, Education, and Welfare not to exceed $7,000,000, $14,000,000, $19,200,000, $20,000,000, and $19,750,000 for the fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively, added clause (1) authorizing to be appropriated to the Secretary to carry out this chapter, including but not limited to section 3254b of this title, not to exceed $41,500,000 for the fiscal year ending June 30, 1971, added clause (2) authorizing to be appropriated to the Secretary to carry out this chapter, other than section 3254b of this title, not to exceed $72,000,000 and $76,000,000 for the fiscal years ending June 30, 1972 and 1973, respectively, and added clause (3) authorizing to be appropriated to the Secretary to carry out section 3254b of this title, not to exceed $80,000,000, and $140,000,000, for the fiscal years ending June 30, 1972 and 1973, respectively.

Subsec. (b). Pub. L. 91–512, § 105, struck out provisions authorizing to be appropriated to the Secretary of the Interior not to exceed $3,000,000, $6,000,000, $10,800,000, $12,500,000, and $12,250,000 for the fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively, added provisions authorizing to be appropriated to the Secretary not to exceed $8,750,000, $20,000,000, and $22,500,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, and added requirement that the Secretary of the Interior consult with the Secretary of Health, Education, and Welfare before expending any of the authorized funds to assure that the expenditure of such funds is consistent with the purposes of this chapter.

Subsecs. (c), (d). Pub. L. 91–512, § 105, added subsecs. (c) and (d).

1968—Subsec. (a). Pub. L. 90–574, § 506(1), authorized appropriations not to exceed $19,750,000 for the fiscal year ending June 30, 1970.

Subsec. (b). Pub. L. 90–574, § 506(2), authorized appropriations not to exceed $12,250,000 for the fiscal year ending June 30, 1970.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1970, § 2(a)(3), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. ———, tranferred to the Administrator of the Environmental Protection Agency the functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the National Air Pollution Control Administration, and the Environmental Control Administration's Bureau of Solid Waste Management, Bureau of Water Hygiene, and Bureau of Radiological Health, except insofar as the functions carried out by the Bureau of Radiological Health pertain to regulation of radiation from consumer products, including electronic product radiation, radiation as used in the healing arts, occupational exposure to radiation, and research, technical assistance, and training related to radiation from consumer products, radiation as used in the healing arts, and occupational exposure to radiation.

EXTENSION TO AUG. 31, 1970, OF AUTHORIZATION PERIOD FOR FISCAL YEAR 1970

Pub. L. 91–316, July 10, 1970, 84 Stat. 416, provided in part that the authorization contained in section 210 of the Solid Waste Disposal Act [this section] for the fiscal year ending June 30, 1970, should remain available through Aug. 31, 1970, notwithstanding any provisions of this section.

DUPLICATION OF BENEFITS

No grant, award, or loan of assistance to any student under any Act amended by Pub. L. 90–574, which amended this section, to be considered a duplication of benefits for the purposes of section 1781 of Title 38, Veterans' Benefits, see section 504 of Pub. L. 90–574, set out as a note under section 1781 of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3254b of this title.

Chapter 40.—SOIL INFORMATION ASSISTANCE FOR COMMUNITY PLANNING AND RESOURCE DEVELOPMENT

Sec.
3271. Availability of soil surveys under soil survey program.
3272. Cooperative assistance to State and other public agencies; types of assistance; private engineering services.
3273. Contributions of State or other public agencies toward the cost of soil surveys.
3274. Authorization of appropriations.

§ 3271. Availability of soil surveys under soil survey program.

In recognition of the increasing need for soil surveys by the States and other public agencies in connection with community planning and resource development for protecting and improving the quality of the environment, meeting recreational needs, conserving land and water resources, providing for multiple uses of such resources, and controlling and reducing pollution from sediment and other pollutants in areas of rapidly changing uses, including farmlands being shifted to other uses, resulting from rapid expansions in the uses of land for industry, housing, transportation, recreation, and related services, it is the sense of Congress that the soil survey program of the United States Department of Agriculture should be conducted so as to make available soil surveys to meet such needs of the States and other public agencies in connection with community planning and resource development. (Pub. L. 89–560, § 1, Sept. 7, 1966, 80 Stat. 706.)

§ 3272. Cooperative assistance to State and other public agencies; types of assistance; private engineering services.

In order to provide soil surveys to assist States, their political subdivisions, soil and water conservation districts, towns, cities, planning boards and commissions, community development districts, and other public agencies in community planning and resource development for the protection and improvement of the quality of the environment, recreational development, the conservation of land and water resources, the development of multiple uses of such resources, and the control and prevention of pollution from sediment and other pollutants in areas of rapidly changing uses, including farm and nonfarm areas, the Secretary of Agriculture shall, upon the request of a State or other public agency, provide by means of such cooperative arrangements with the State or other public agency as he may deem advisable, the following assistance with respect to such areas and purposes:

(1) the making of studies and reports necessary for the classification and interpretation of kinds of soil;

(2) an intensification of the use and benefits of the National Cooperative Soil Survey;

(3) the furnishing of technical and other assistance needed for use of soil surveys; and

(4) consultation with other Federal agencies participating or assisting in the planning and development of such areas in order to assure the coordination of the work under this chapter with the related work of such other agencies.

The provision by the Secretary of such assistance shall not interfere with the furnishing of engineering services by private engineering firms or consultants for on-site sampling and testing of sites or for design and construction of specific engineering works. (Pub. L. 89-560, § 2, Sept. 7, 1966, 80 Stat. 706.)

§ 3273. Contributions of State or other public agencies toward the cost of soil surveys.

It is further the sense of the Congress that the Secretary shall make a reasonable effort to assure that the contributions of any State or other public agency under any cooperative agreement which may be entered into between the Secretary and such State or other public agency with respect to a soil survey shall be a substantial portion of the cost of such soil survey. (Pub. L. 89-560, § 3, Sept. 7, 1966, 80 Stat. 706.)

§ 3274. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter, such sums to remain available until expended. (Pub. L. 89-560, § 4, Sept. 7, 1966, 80 Stat. 706.)

Chapter 41.—DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT PROGRAM

SUBCHAPTER I.—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

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3301. Congressional findings and declaration of purpose.
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3303. Eligibility for assistance; implementation of programs; analyses and programing systems; transfer of pupils.
3304. Financial assistance for planning and developing subchapter I programs; eligibility for assistance.
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(a) Approval of programs by Secretary.
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3331. Congressional findings and declaration of purpose.
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SUBCHAPTER I.—COMPREHENSIVE CITY DEMONSTRATION PROGRAMS

§ 3301. Congressional findings and declaration of purpose.

The Congress hereby finds and declares that improving the quality of urban life is the most critical domestic problem facing the United States. The persistence of widespread urban slums and blight, the concentration of persons of low income in older urban areas, and the unmet needs for additional housing and community facilities and services arising from rapid expansion of our urban population have resulted in a marked deterioration in the quality of the environment and the lives of large numbers of our people while the Nation as a whole prospers.

The Congress further finds and declares that cities, of all sizes, do not have adequate resources to deal effectively with the critical problems facing them, and that Federal assistance in addition to that now authorized by the urban renewal program and other existing Federal grant-in-aid programs is essential to enable cities to plan, develop, and conduct programs to improve their physical environment, increase their supply of adequate housing for low- and moderate-income people, and provide educational and social services vital to health and welfare.

The purposes of this subchapter are to provide additional financial and technical assistance to enable cities of all sizes (with equal regard to the problems of small as well as large cities) to plan, develop, and carry out locally prepared and scheduled comprehensive city demonstration programs containing new and imaginative proposals to rebuild or revitalize large slum and blighted areas; to expand housing, job, and income opportunities; to reduce dependence on welfare payments; to improve educational facilities and programs; to combat disease and ill health; to reduce the incidence of crime and delinquency; to enhance recreational and cultural opportunities; to establish better access between homes and jobs; and generally to improve living conditions for the people who live in such areas, and to accomplish these objectives through the most effective and economical concentration and coordination of Federal, State, and local public and private efforts to improve the quality of urban life. (Pub. L. 89-754, title I, § 101, Nov. 3, 1966, 80 Stat. 1255.)

SHORT TITLE

Section 1 of Pub. L. 89-754 provided: "That this Act [which enacted this chapter, section 1500d-1 of this title, sections 1735f-1, 1749cc-1, and 1749aaa to 1749aaa-5 of Title 12, and section 470b-1 of Title 16, amended sections 1416, 1421, 1453, 1455, 1456, 1460, 1463, 1471, 1472, 1474, 1485, 1487, 1492, 1500, 1500a, 1500c-2, 1500d, and 1500e of this title, section 663 of Title 11, sections 24, 371, 1432, 1438, 1702, 1709, 1715c, 1715e, 1715k, 1715*l*, 1715n, 1715r, 1717, 1719, 1720, 1723, 1731a, 1735g, 1749, 1749c, 1749aa, 1749bb, 1749dd, 1749ee of Title 12, sections 77ddd and 637 of Title 15, and section 461 of Title 40, repealed section 1735h of Title 12, enacted provisions set out as notes under sections 1455 and 1500d-1 of this title and sections 1718, 1749cc-1, and 1749aaa of Title 12, and amended provisions set out as notes under sections 1701d-3, 1701q, and 1715e of Title 12] may be cited as the 'Demonstration Cities and Metropolitan Development Act of 1966'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3303 of this title.

§ 3302. Basic authority.

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make grants and provide technical assistance, as provided by this subchapter, to enable city demonstration agencies (as defined in section 3312(2) of this title) to plan, develop, and carry out comprehensive city demonstration programs in accordance with the purposes of this subchapter. (Pub. L. 89-754, title I, § 102, Nov. 3, 1966, 80 Stat. 1255.)

§ 3303. Eligibility for assistance; implementation of programs; analyses and programing systems; transfer of pupils.

(a) A comprehensive city demonstration program is eligible for assistance under sections 3305 and 3307 of this title only if—

(1) physical and social problems in the area of the city covered by the program are such that a comprehensive city demonstration program is necessary to carry out the policy of the Congress as expressed in section 3301 of this title;

(2) the program is of sufficient magnitude to make a substantial impact on the physical and social problems and to remove or arrest blight and decay in entire sections or neighborhoods; to contribute to the sound development of the entire city; to make marked progress in reducing social and educational disadvantages, ill health, underemployment, and enforced idleness; and to provide educational, health, and social services necessary to serve the poor and disadvantaged in the area, widespread citizen participation in the program, maximum opportunities for employing residents of the area in all phases of the program, and enlarged opportunities for work and training;

(3) the program, including rebuilding or restoration, will contribute to a well-balanced city with a substantial increase in the supply of standard housing of low and moderate cost, maximum opportunities in the choice of housing accommodations for all citizens of all income levels, adequate public facilities (including those needed for education, health and social services, transportation, and recreation), commercial facilities adequate to serve the residential areas, and ease of access between the residential areas and centers of employment;

(4) the various projects and activities to be undertaken in connection with such programs are scheduled to be initiated within a reasonably short period of time; adequate local resources are, or will be, available for the completion of the program as scheduled, and, in the carrying out of the program, the fullest utilization possible will be made of private initiative and enterprise; administrative machinery is available at the local level for carrying out the program on a consolidated and coordinated basis; substantive local laws, regulations, and other requirements are, or can be expected to be, consistent with the objectives of the program; there exists a relocation plan meeting the requirements of the regulations referred to in section 3307 of this title; the local governing body has approved the program and, where

appropriate, applications for assistance under the program; agencies whose cooperation is necessary to the success of the program have indicated their intent to furnish such cooperation; the program is consistent with comprehensive planning for the entire urban or metropolitan area; and the locality will maintain, during the period an approved comprehensive city demonstration program is being carried out, a level of aggregate expenditures for activities similar to those being assisted under this subchapter which is not less than the level of aggregate expenditures for such activities prior to initiation of the comprehensive city demonstration program; and

(5) the program meets such additional requirements as the Secretary may establish to carry out the purposes of this subchapter: *Provided,* That the authority of the Secretary under this paragraph shall not be used to impose criteria or establish requirements except those which are related and essential to the specific provisions of this subchapter.

(b) In implementing this subchapter the Secretary shall—

(1) emphasize local initiative in the planning, development, and implementation of comprehensive city demonstration programs;

(2) insure, in conjunction with other appropriate Federal departments and agencies and at the direction of the President, maximum coordination of Federal assistance provided in connection with this subchapter, prompt response to local initiative, and maximum flexibility in programing, consistent with the requirements of law and sound administrative practice; and

(3) encourage city demonstration agencies to (A) enhance neighborhoods by applying a high standard of design, (B) maintain, as appropriate, natural and historic sites and distinctive neighborhood characteristics, and (C) make maximum possible use of new and improved technology and design, including cost reduction techniques.

(c) The preparation of demonstration city programs should include to the maximum extent feasible (1) the performance of analyses that provide explicit and systematic comparisons of the costs and benefits, financial and otherwise, of alternative possible actions or courses of action designed to fulfill urban needs; and (2) the establishment of programing systems designed to assure effective use of such analyses by city demonstration agencies and by other government bodies.

(d) Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this subchapter upon) the adoption by any community of a program (1) by which pupils now resident in a school district not within the confines of the area covered by the city demonstration program shall be transferred to a school or school district including all or part of such area, or (2) by which pupils now resident in a school district within the confines of the area covered by the city demonstration program shall be transferred to a school or school district not including a part of such area.

(Pub. L. 89–754, title I, § 103, Nov. 3, 1966, 80 Stat. 1256.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3305 of this title.

§ 3304. Financial assistance for planning and developing subchapter I programs; eligibility for assistance.

(a) The Secretary is authorized to make grants to, and to contract with, city demonstration agencies to pay 80 per centum of the costs of planning and developing comprehensive city demonstration programs.

(b) Financial assistance will be provided under this section only if (1) the application for such assistance has been approved by the local governing body of the city, and (2) the Secretary has determined that there exist (A) administrative machinery through which coordination of all related planning activities of local agencies can be achieved, and (B) evidence that necessary cooperation of agencies engaged in related local planning can be obtained. (Pub. L. 89–754, title I, § 104, Nov. 3, 1966, 80 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3305, 3311 of this title.

§ 3305. Financial assistance for approved subchapter I programs.

(a) Approval of programs by Secretary.

The Secretary is authorized to approve comprehensive city demonstration programs if, after review of the plans, he determines that such plans satisfy the criteria for such programs set forth in section 3303 of this title.

(b) Grants and contracts for approved programs; exclusion of Federal grant-in-aid program.

The Secretary is authorized to make grants to, and to contract with, city demonstration agencies to pay 80 per centum of the cost of administering approved comprehensive city demonstration programs, but not the cost of administering any project or activity assisted under a Federal grant-in-aid program.

(c) Limitation on amount of grants; execution of Federal grant-in-aid program in connection with demonstration program; criteria for determination of specific amount; certification of non-Federal contribution for projects in Federal grant-in-aid program.

To assist the city to carry out the projects or activities included within an approved comprehensive city demonstration program, the Secretary is authorized to make grants to the city demonstration agency of not to exceed 80 per centum of the aggregate amount of non-Federal contributions otherwise required to be made to all projects or activities assisted by Federal grant-in-aid programs (as defined in section 3312(1) of this title) which are carried out in connection with such demonstration program: *Provided,* That no Federal grant-in-aid program shall be considered to be carried out in connection with such demonstration program unless it is closely related to the physical and social problems in the area of the city covered by the program and unless it can reasonably be expected to have a noticeable effect upon such problems. The specific amount of any such grant shall take into account the number and

intensity of the economic and social pressures in the sections or neighborhoods involved, such as those involving or resulting from population density, poverty levels, unemployment rate, public welfare participation, educational levels, health and disease characteristics, crime and delinquency rate, and degree of substandard and dilapidated housing. The amount of non-Federal contribution required for each project in a Federal grant-in-aid program shall be certified to the Secretary by the Federal department or agency (other than the Department of Housing and Urban Development) administering such program, and the Secretary shall accept such certification in computing the grants hereunder.

(d) Availability of grant funds for projects and activities without assistance under Federal grant-in-aid program; non-Federal contribution to projects or activities; restrictions on use of funds.

Grant funds provided to assist projects and activities included within an approved comprehensive city demonstration program pursuant to subsection (c) of this section shall be made available to assist new and additional projects and activities not assisted under a Federal grant-in-aid program. To the extent such funds are not necessary to support fully such new and additional projects and activities, they may be used and credited as part or all of the required non-Federal contribution to projects or activities, assisted under a Federal grant-in-aid program, which are part of an approved comprehensive city demonstration program. Such grant funds, however, shall not be used—

(1) for the general administration of local governments; or

(2) to replace non-Federal contributions in any federally aided project or activity included in an approved comprehensive city demonstration program, if prior to the filing of an application for assistance under section 3304 of this title an agreement has been entered into with any Federal agency obligating such non-Federal contributions with respect to such project or activity.

(Pub. L. 89–754, title I, § 105, Nov. 3, 1966, 80 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 3303, 3307, 3309, 3311, 3313, 3316, 3336 of this title.

§ 3306. Technical assistance.

The Secretary is authorized to undertake such activities as he determines to be desirable to provide, either directly or by contracts or other arrangements, technical assistance to city demonstration agencies to assist such agencies in planning, developing, and administering comprehensive city demonstration programs. (Pub. L. 89–754, title I, § 106, Nov. 3, 1966, 80 Stat. 1258.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 3307. Relocation requirements and payments; definition; prior displacements.

(a) A comprehensive city demonstration program shall include a plan for the relocation of individuals, families, business concerns, and nonprofit organizations displaced or to be displaced in the carrying out of such program. The relocation plan shall be consistent with regulations prescribed by the Secretary to assure that (1) the provisions and procedures included in the plan meet relocation standards equivalent to those prescribed under section 105(c) of the Housing Act of 1949 with respect to urban renewal projects assisted under title I of that Act, and (2) relocation activities are coordinated to the maximum extent feasible with the increase in the supply of decent, safe, and sanitary housing for families and individuals of low or moderate income, as provided under the comprehensive city demonstration program, or otherwise, in order to best maintain the available supply of housing for all such families and individuals throughout the city.

(b)(1) To the extent not otherwise authorized under any Federal law, financial assistance extended to a city demonstration agency under section 3305 of this title shall include grants to cover the full cost of relocation payments, as herein defined. Such grants shall be in addition to other financial assistance extended to such agency under such section 3305.

(2) The term "relocation payments" means payments by a city demonstration agency to a displaced individual, family, business concern, or nonprofit organization which are made on such terms and conditions and subject to such limitations (to the extent applicable, but not including the date of displacement) as are provided for relocation payments, at the time such payments are approved, by section 114(b), (c), (d), and (e) of the Housing Act of 1949 with respect to projects assisted under title I thereof.

(c) Subsection (b) of this section shall not be applicable with respect to any displacement occurring prior to November 3, 1966. (Pub. L. 89–754, title I, § 107, Nov. 3, 1966, 80 Stat. 1259.)

REPEAL

Provisions of subsecs. (b) and (c) of this section repealed by Pub. L. 91–646, Title II, § 220(a)(9), Jan. 2, 1971, 84 Stat. 1903, the repeal not to be applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as a note under section 4601 of this title.

REFERENCES IN TEXT

Section 105(c) of the Housing Act of 1949 and section 114(b), (c), (d), and (e) of the Housing Act of 1949, referred to in subsecs. (a) and (b)(2), are classified to sections 1455(c) and 1465(b), (c), (d), and (e) of this title.

Title I of that Act and title I thereof, referred to in subsecs. (a) and (b)(2), is classified to subchapter II of chapter 8A (section 1450 et seq.) of this title.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91–646 as not affected by such repeal, see section 220(b) of Pub. L. 91–646, set out as a note under section 4621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3303, 3311 of this title.

§ 3308. Continued availability of Federal grant-in-aid program funds.

Notwithstanding any other provision of law, unless hereafter enacted expressly in limitiation of the provisions of this section, funds appropriated for a Federal grant-in-aid program which are reserved for any projects or activities assisted under such grant-in-aid program and undertaken in connection with an approved comprehensive city demonstration program shall remain available until expended. (Pub. L. 89–754, title I, § 108, Nov. 3, 1966, 80 Stat. 1259.)

§ 3309. Consultations.

In carrying out the provisions of this subchapter, including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs. The Secretary shall consult with each Federal department and agency affected by each comprehensive city demonstration program before entering into a commitment to make grants for such program under section 3305 of this title. (Pub. L. 89–754, title I, § 109, Nov. 3, 1966, 80 Stat. 1259.)

§ 3310. Labor standards.

(a) All laborers and mechanics employed by contractors or subcontractors in the construction, rehabilitation, alteration, or repair of projects which—

(1) are federally assisted in whole or in part under this subchapter and

(2) are not otherwise subject to section 1715c of Title 12, section 1416(2) of this title, section 1459 of this title, or any other provision of Federal law imposing labor standards on federally assisted construction,

shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended: *Provided,* That this section shall apply to the construction, rehabilitation, alteration, or repair of residential property only if such residential property is designed for residential use for eight or more families. No financial assistance shall be extended to any such projects unless adequate assurance is first obtained that these labor standards will be maintained upon the construction work.

(b) The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a) of this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40, and the Contract Work Hours Standards Act. (Pub. L. 89–754, title I, § 110, Nov. 3, 1966, 80 Stat. 1259.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in subsec. (a), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

The Contract Work Hours Standards Act, referred to in subsec. (b), was redesignated the Contract Work Hours and Safety Standards Act, and is classified to sections 327—333 of Title 40.

§ 3311. Authorization of appropriations; assistance to city demonstration agencies; availability of funds for expenditures.

(a) There are authorized to be appropriated, for the purpose of financial assistance under sections 3304 and 3306 of this title, not to exceed $12,000,000 for the fiscal year ending June 30, 1967, not to exceed $12,000,000 for the fiscal year ending June 30, 1968, and not to exceed $12,000,000 for the fiscal year ending June 30, 1969.

(b) There are authorized to be appropriated, for the purpose of financial assistance under sections 3305, 3306, and 3307 of this title, not to exceed $400,000,000 for the fiscal year ending June 30, 1968, not to exceed $500,000,000 for the fiscal year ending June 30, 1969, not to exceed $1,000,000,000 for the fiscal year ending June 30, 1970, not to exceed $600,000,000 for the fiscal year ending June 30, 1971, and not to exceed $200,000,000 for the fiscal year ending June 30, 1972. Under regulations prescribed by the Secretary, 10 per centum of the amounts appropriated pursuant to this subsection for the fiscal year ending June 30, 1970, and for any fiscal year thereafter shall be used for assistance to city demonstration agencies in cities or counties having a population (according to the most recent decennial census) of less than 100,000, and may be so used (to the extent specifically provided in such regulations) without regard to the limitation set forth in the first sentence of section 3305(c) of this title.

(c) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972. (Pub. L. 89–754, title I, § 111, Nov. 3, 1966, 80 Stat. 1260; Pub. L. 90–448, title XVII, § 1701, Aug. 1, 1968, 82 Stat. 602; Pub. L. 91–152, title III, § 301, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–609, title III, § 301, Dec. 31, 1970, 84 Stat. 1780.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609, § 301(c), struck out "and administrative expenses" following "financial assistance".

Subsec. (b). Pub. L. 91–609, § 301(a), (c), authorized appropriation of $200,000,000 for fiscal year ending June 30, 1972, and struck out "and administrative expenses" following "financial assistance", respectively.

Subsec. (c). Pub. L. 91–609, § 301(b), substituted "July 1, 1972" for "July 1, 1971".

1969—Subsec. (b). Pub. L. 91–152, § 301(a), authorized appropriations of not more than $600,000,000 for the fiscal year ending June 30, 1971, and added the provision requiring 10 per centum of the amounts appropriated pursuant to this subsection for the fiscal year ending June 30, 1970, and for any fiscal year thereafter, to be used for assistance to city demonstration agencies under the specified conditions.

Subsec. (c). Pub. L. 91–152, § 301(b), substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (a). Pub. L. 90–448, § 1701(a), authorized appropriations of not more than $12,000,000 for the fiscal year ending June 30, 1969.

Subsec. (b). Pub. L. 90–448, § 1701(b), authorized appropriations of not more than $1,000,000,000 for the fiscal year ending June 30, 1970.

Subsec. (c). Pub. L. 90–448, § 1701(c), permitted any amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3313 of this title.

§ 3312. Definitions.

As used in this subchapter—

(1) "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this subchapter.

(2) "City demonstration agency" means the city, the county, or any local public agency established or designated by the local governing body of such city or county to administer the comprehensive city demonstration program.

(3) "City" means any municipality (or two or more municipalities acting jointly) or any county or other public body (or two or more acting jointly) having general governmental powers.

(4) "Local" agencies include State agencies and instrumentalities providing services or resources to a city or locality, and "local" resources include those provided to a city or locality by a State or its agency or instrumentality. (Pub. L. 89–754, title I, § 112, Nov. 3, 1966, 80 Stat. 1260.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3302, 3305 of this title.

§ 3313. Limitation on amount of grant.

Grants made under section 3305 of this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated under section 3311 of this title. (Pub. L. 89–754, title I, § 114, Nov. 3, 1966, 80 Stat. 1261.)

SUBCHAPTER II.—PLANNED AREAWIDE DEVELOPMENT

§ 3331. Congressional findings and declaration of purpose.

(a) The Congress hereby finds that the welfare of the Nation and of its people is directly dependent upon the sound and orderly development and the effective organization and functioning of our State and local governments.

It further finds that it is essential that our State and local governments prepare, keep current, and carry out comprehensive plans and programs for their orderly physical development with a view to meeting efficiently all their economic and social needs.

It further finds that our State and local governments are especially handicapped in this task by the complexity and scope of governmental services required, the multiplicity of political jurisdictions and agencies involved, and the inadequacy of the operational and administrative arrangements available for cooperation among them.

It further finds that present requirements for areawide planning and programing in connection with various Federal programs have materially assisted in the solution of areawide problems, but that greater coordination of Federal programs and additional participation and cooperation are needed from the States and localities in perfecting and carrying out such efforts.

(b) It is the purpose of this subchapter to provide through greater coordination of Federal programs, and through supplementary grants for certain federally assisted development projects, additional encouragement and assistance to States and localities for making comprehensive areawide planning and programing effective. (Pub. L. 89–574, title II, § 201, Nov. 3, 1966, 80 Stat. 1261; Pub. L. 90–448, title VI, § 602(b), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Pub. L. 90–448 extended scope from metropolitan planning and programing to areawide planning and programing.

§ 3332. Cooperation between Federal agencies.

In order to insure that all Federal programs related to areawide development are carried out in a coordinated manner—

(1) the Secretary is authorized to call upon other Federal agencies to supply such statistical data, program reports, and other materials as he deems necessary to discharge his responsibilities for areawide development, and to assist the President in coordinating the areawide development efforts of all Federal agencies; and

(2) all Federal agencies which are engaged in administering programs related to areawide development, or which otherwise perform functions relating thereto, shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

(Pub. L. 89–754, title II, § 202, Nov. 3, 1966, 80 Stat. 1261; Pub. L. 90–448, title VI, § 602(c), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Pub. L. 90–448 substituted "areawide" for "metropolitan" wherever appearing.

§ 3333. Metropolitan expediters.

Upon the request of the duly authorized local officials of the central city in any metropolitan area, and after consultation with local governmental authorities throughout the metropolitan area with respect to whether or not the Secretary should make an appointment under this section (and with respect to the individuals who might be so appointed), the Secretary may appoint a metropolitan expediter for such area whenever he finds a need for the services specified in this section. The metropolitan expediter shall provide information, data, and assistance to local authorities and private individuals and entities within the metropolitan area, and to all relevant Federal departments and agencies, with respect to all programs and activities conducted within such metropolitan area by the Department of Housing and Urban Development, and with respect to other public and private activities and needs within such metropolitan area which relate to the programs and activities of the Department. (Pub. L. 89–754, title II, § 203, Nov. 3, 1966, 80 Stat. 1262.)

§ 3334. Coordination of Federal aids in metropolitan areas; rules and regulations.

(a) All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out open-space land projects or for the planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities

and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review—

(1) to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

(b) (1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c) of this section, or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this subchapter, involves a major change in the project covered by the application prior to such amendment.

(c) The Office of Management and Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section. (Pub. L. 89-754, title II, § 204, Nov. 3, 1966, 80 Stat. 1262; Pub. L. 90-351, title I, § 522, June 19, 1968, 82 Stat. 208; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-351 inserted "law enforcement facilities" after "transportation facilities".

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 3335. Grants to assist in planned areawide development.

(a) Supplementary grants.

The Secretary is authorized to make supplementary grants to applicant State and local public bodies and agencies carrying out, or assisting in carrying out, areawide development projects meeting the requirements of this section.

(b) Criteria.

Grants may be made under this section only for areawide development projects in areas for which it has been demonstrated, to the satisfaction of the Secretary, that—

(1) areawide comprehensive planning and programing provide an adequate basis for evaluating (A) the location, financing, and scheduling of individual public facility projects (including but not limited to hospitals and libraries; sewer, water, and sewage treatment facilities; highway, mass transit, airport, and other transportation facilities; and recreation and other open-space areas) whether or not federally assisted; and (B) other proposed land development or uses, which projects or uses, because of their size, density, type, or location, have public areawide or interjurisdictional significance;

(2) adequate areawide institutional or other arrangements exist for coordinating, on the basis of such areawide comprehensive planning and programing, local public policies and activities affecting the development of the area; and

(3) public facility projects and other land development or uses which have a major impact on the development of the area are, in fact, being carried out in accord with such areawide comprehensive planning and programing.

(c) Grant to unit of general local government or other applicant.

(1) Where the applicant for a grant under this section is a unit of general local government, it must demonstrate to the satisfaction of the Secretary that, taking into consideration the scope of its authority and responsibilities, it is adequately assuring that public facility projects and other land development or uses of public areawide or interjurisdictional significance are being, and will be, carried out in accord with areawide planning and programing meeting the requirements of subsection (b) of this section. In

making this determination the Secretary shall give special consideration to whether the applicant is effectively assisting in, and conforming to, areawide planning and programing through (A) the location and scheduling of public facility projects, whether or not federally assisted; and (B) where appropriate, the establishment and consistent administration of zoning codes, subdivision regulations, and similar land-use and density controls.

(2) Where the applicant for a grant under this section is not a unit of general local government, both it and the unit of general local government having jurisdiction over the location of the project must meet the requirements of this subsection.

(d) Secretary's consideration of comments of State bodies.

In making the determinations required under this section, the Secretary shall obtain, and give full consideration to, the comments of the body or bodies (State or local) responsible for comprehensive planning and programing for the area.

(e) Restriction on grants to certain areawide development projects.

No grant shall be made under this section with respect to an areawide development project for which a Federal grant has been made, or a contract of assistance has been entered into, under the legislation referred to in paragraph (2) of section 3338 of this title, prior to February 21, 1966, or more than one year prior to the date on which the Secretary has made the determinations required under this section with respect to the applicant and to the area in which the project is located: *Provided,* That in the case of a project for which a contract of assistance under the legislation referred to in paragraph (2) of section 3338 of this title has been entered into after June 30, 1967, no grant shall be made under this section unless an application for such grant has been made on or before the date of such contract.

(f) Racial balance or imbalance within school districts.

Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this subchapter upon) the adoption by any community of a program to achieve a racial balance or to eliminate racial imbalance within school districts. (Pub. L. 89–754, title II, § 205, Nov. 3, 1966, 80 Stat. 1263; Pub. L. 90–448, title VI, § 602(d), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–448, § 602(d)(1), substituted "areawide development" for "metropolitan development."

Subsec. (b). Pub. L. 90–448, § 602(d)(1)—(3), substituted "areawide development projects in areas" for "metropolitan development projects in metropolitan areas", "areawide comprehensive planning" for "metropolitanwide comprehensive planning" in three instances, "public areawide" for "public metropolitanwide", and "adequate areawide" for "adequate metropolitanwide."

Subsec. (c). Pub. L. 90–448, § 602(d)(3)—(5), substituted "public areawide" for "public metropolitanwide", and "areawide planning" for "metropolitan planning" in two instances, and inserted words "where appropriate," following "(B)."

Subsec. (d). Pub. L. 90–448, § 602(d)(2), substituted "programing for the area" for "programing for the metropolitan area."

Subsec. (e). Pub. L. 90–448, § 602(d)(1), substituted "areawide development project" for "metropolitan development project."

Subsec. (f). Pub. L. 90–448, § 602(d)(6), eliminated words "within the metropolitanwide area" which followed "school districts."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3336, 3337, 3339 of this title.

§ 3336. Same; amount of grant.

(a) Limitation; Federal and non-Federal contributions; projects or activities eligible for assistance.

A grant under section 3335 of this title shall not exceed (1) 20 per centum of the cost of the project for which the grant is made; nor (2) the Federal grant made with respect to the project under the legislation referred to in paragraph (2) of section 3338 of this title. In no case shall the total Federal contributions to the cost of such project be more than 80 per centum. Notwithstanding any other provision of law, including requirements with respect to non-Federal contributions, grants under section 3335 of this title shall be eligible for inclusion (directly or through refunds or credits) as part of the financing for such projects: *Provided,* That projects or activities on the basis of which assistance is provided under section 3305(c) of this title shall not be eligible for assistance under section 3335 of this title.

(b) Authorization of appropriations; availability of funds for expenditures.

There are authorized to be appropriated for grants under section 3335 of this title not to exceed $25,000,000 for the fiscal year ending June 30, 1967, and not to exceed $50,000,000 for the fiscal year ending June 30, 1968. Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1970. (Pub. L. 89–754, title II, § 206, Nov. 3, 1966, 80 Stat. 1264; Pub. L. 90–448, title VI, § 602(f), Aug. 1, 1968, 82 Stat. 532.)

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–448 permitted any amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3337, 3339 of this title.

§ 3337. Consultations and certifications.

In carrying out his authority under section 3335 of this title, including the issuance of regulations, the Secretary shall consult with the Department of the Interior; the Department of Health, Education, and Welfare; the Department of Commerce; and the Federal Aviation Agency with respect to metropolitan development projects assisted by those departments and agencies; and he shall, for the purpose of section 3336 of this title, accept their respective certifications as to the cost of those projects and the amount of the non-Federal contribution paid or to be paid to that cost. (Pub. L. 89–754, title II, § 207, Nov. 3, 1966, 80 Stat. 1264.)

CHANGE OF NAME

The name of the Federal Aviation Agency was changed to the Federal Aviation Administration pursuant to Pub.

L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and the Federal Aviation Administration as a component part of such Department. See section 1651 et seq. of Title 49, Transportation.

§ 3338. Definitions.

As used in this subchapter—

(1) "Areawide development" means all projects or programs for the acquisition, use, and development of open-space land; and the planning and construction of hospitals, libraries, airports, water supply and distribution facilities, sewerage facilities and waste treatment works, transportation facilities, highways, water development and land conservation, and other public works facilities.

(2) "Areawide development project" means a project assisted or to be assisted under section 702 of the Housing and Urban Development Act of 1965; title II of the Library Services and Construction Act; section 606 of the Public Health Service Act; section 8 of the Federal Water Pollution Control Act; section 120(a) of Title 23; section 12 of the Federal Airport Act; section 19 of the Airport and Airway Development Act of 1970; section 3 of the Urban Mass Transportation Act of 1964; title VII of the Housing Act of 1961; or section 5(e) of the Land and Water Conservation Fund Act of 1965; or under section 101(a)(1) of the Public Works and Economic Development Act of 1965 (for a project of a type which the Secretary determines to be eligible for assistance under any of the other provisions listed above).

(3) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or an agency or instrumentality of any of the foregoing.

(4) "Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget, subject however to such modifications and extensions as the Secretary may determine to be appropriate for the purposes of this subchapter.

(5) "Comprehensive planning" includes the following, to the extent directly related to area needs or needs of a unit of general local government: (A) preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities; (B) programing of capital improvements based on a determination of relative urgency; (C) long-range fiscal plans for implementing such plans and programs; and (D) proposed regulatory and administrative measures which aid in achieving coordination of all related plans of the departments or subdivisions of the governments concerned and intergovernmental coordination of related planned activities among the State and local governmental agencies concerned.

(6) "Hospital" means any public health center or general, tuberculosis, mental, chronic disease, or other type of hospital and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities normally operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(7) "Areawide agency" means an official State, metropolitan, regional, or district agency empowered under State or local laws or under an interstate compact or agreement to perform comprehensive planning in an area; an organization of the type referred to in section 461(g) of Title 40; or such other agency or instrumentality as may be designated by the Governor (or, in the case of areas crossing State lines, any one or more of such agencies or instrumentalities as may be designated by the Governors of the States involved) to perform such planning.

(8) "Special purpose unit of local government" means any special district, public-purpose corporation, or other limited-purpose political subdivision of a State, but shall not include a school district.

(9) "Unit of general local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

(10) "Secretary" means the Secretary of Housing and Urban Development. (Pub. L. 89-754, title II, § 208, Nov. 3, 1966, 80 Stat. 1265; Pub. L. 90-448, title VI, § 602(e), Aug. 1, 1968, 82 Stat. 532; Pub. L. 91-258, title I, § 52(b)(3), May 21, 1970, 84 Stat. 235; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

Section 702 of the Housing and Urban Development Act of 1965, referred to in subd. (2), is classified to section 3102 of this title.

Title II of the Library Services and Construction Act, referred to in subd. (2), is classified to sections 355a—355d of Title 20, Education.

Section 606 of the Public Health Service Act, referred to in subd. (2), is classified to section 291f of this title.

Section 8 of the Federal Water Pollution Control Act, referred to in subd. (2), is classified to section 466e of Title 33, Navigation and Navigable Waters.

Section 12 of the Federal Airport Act, referred to in subd. (2), was formerly classified to section 1111 of Title 49, Transportation, was repealed by section 52(a) of Pub. L. 91-258, and is now covered by section 1719 of Title 49.

Section 19 of the Airport and Airway Development Act of 1970, referred to in subd. (2), is classified to section 1719 of Title 49, Transportation.

Section 3 of the Urban Mass Transportation Act of 1964, referred to in subd. (2), is classified to section 1602 of Title 49.

Title VII of the Housing Act of 1961, referred to in subd. (2), is classified to chapter 8C of this title.

Section 5(e) of the Land and Water Conservation Fund Act of 1965, referred to in subd. (2), is classified to section 460*l*—8(e) of Title 16, Conservation.

Section 101(a)(1) of the Public Works and Economic Development Act of 1965, referred to in subd. (2), is classified to section 3131(a)(1) of this title.

AMENDMENTS

1970—Subd. (2). Pub. L. 91-258 inserted "section 19 of the Airport and Airway Development Act of 1970;" after "section 12 of the Federal Airport Act;".

1968—Par. (1). Pub L. 90-448, § 602(e)(1), substituted "Areawide development" for "Metropolitan development."

Par. (2). Pub. L. 90-448, § 602(e)(1), substituted "Areawide development project" for "Metropolitan development project."

Par. (7). Pub. L. 90-448, § 602(e)(2), substituted "official State, metropolitan, regional, or district agency" for "official State or metropolitan or regional agency", and "in the case of areas" for "in the case of metropolitan areas."

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the

Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970 set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3335, 3336 of this title.

§ 3339. Limitation on amount of grant.

Grants made under section 3335 of this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated pursuant to section 3336(b) of this title. (Pub. L. 89–754, title II, § 209, Nov. 3, 1966, 80 Stat. 1266.)

SUBCHAPTER III.—URBAN INFORMATION AND TECHNICAL ASSISTANCE SERVICES

§ 3351. Declaration of purpose.

It is the purpose of this subchapter to assist States to make available information and data on urban needs and assistance programs and activities, and to provide technical assistance, to small communities with respect to the solution of urban problems. (Pub. L. 89–754, title IX, § 901, Nov. 3, 1966, 80 Stat. 1282.)

§ 3352. Grant authority; scope of assistance; terms and conditions of programs.

(a) The Secretary is authorized to make grants to States to help finance programs to provide information and data on urban needs and assistance programs and activities, and to provide technical assistance, to small communities with respect to the solution of local problems. Activities aided by such grants may include—

(1) the assembly, correlation, and dissemination of urban physical, social, and economic development information and data for the purpose of informing local governments of small communities, and interested organizations and individuals, of the availability and status of Federal, State, and local programs and other resources and data for the solution of urban problems; and

(2) providing technical assistance with respect to the solution of urban problems to any small community requesting such assistance.

(b) A program assisted under this section shall—

(1) specify the information and technical assistance activities to be carried on and justify the needs for the costs of such activities; and

(2) represent substantially increased or improved activities on the part of the applicant State agency.

(Pub. L. 89–754, title IX, § 902, Nov. 3, 1966, 80 Stat. 1283.)

§ 3353. Amount of grant; restrictions.

(a) A grant under this section shall not exceed 50 per centum of the cost of the activities carried on under an approved urban information and technical assistance program.

(b) No grant shall be made under this subchapter to assist in assembling data, or providing information, to be used primarily in the day to day operations of State or local governing bodies and agencies. (Pub. L. 89–754, title IX, § 903, Nov. 3, 1966, 80 Stat. 1283.)

§ 3354. Cooperation and coordination.

(a) Federal departments and agencies shall cooperate with States in providing information to assist in carrying out the purpose of this subchapter.

(b) In the administration of this subchapter, the Secretary shall seek to ensure the greatest practicable coordination of urban information and technical assistance programs established under this subchapter. (Pub. L. 89–754, title IX, § 904, Nov. 3, 1966, 80 Stat. 1283.)

§ 3355. Definitions.

As used in this subchapter—

(1) "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or an agency or instrumentality designated by the chief executive of any of the foregoing, or a statewide agency or instrumentality of its political subdivisions designated by such chief executive.

(2) "Secretary" means the Secretary of Housing and Urban Development.

(3) "Small communities" means communities having populations of less than one hundred thousand according to the most recent decennial census.

(Pub. L. 89–754, title IX, § 905, Nov. 3, 1966, 80 Stat. 1283.)

§ 3356. Authorization of appropriations; availability of funds for expenditures.

There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter not to exceed $2,500,000 for the fiscal year ending June 30, 1967, not to exceed $5,000,000 for each of the fiscal years 1968 and 1969, and not to exceed $15,000,000 for fiscal year 1970. Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972. (Pub. L. 89–754, title IX, § 906, Nov. 3, 1966, 80 Stat. 1284; Pub. L. 90–448, title XVII, § 1703, Aug. 1, 1968, 82 Stat. 603; Pub. L. 91–152, title III, § 308, Dec. 24, 1969, 83 Stat. 394; Pub. L. 91–609, title III, § 305, Dec. 31, 1970, 84 Stat. 1781.)

AMENDMENTS

1970—Pub. L. 91–609 substituted "July 1, 1972" for "July 1, 1971".

1969—Pub. L. 91–152 substituted "July 1, 1971" for "July 1, 1970".

1968—Pub. L. 90–448 authorized appropriations of not more than $5,000,000 for fiscal year 1969, and not more than $15,000,000 for fiscal year 1970, and permitted amounts authorized for any fiscal year but not appropriated to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970.

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 3371. Assistance for housing in Alaska.

(a) Loans and grants; State program; approval by Secretary; terms and conditions; standards for housing; mutual and self-help in construction; encouragement of self-government and home ownership.

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans and grants to the State of Alaska, or any duly authorized agency or instrumentality thereof, in accordance with a statewide program prepared by such State, agency, or instrumentality, and approved by the Secretary, to assist in the provision of housing and related facilities for Alaska natives and other Alaska residents who are otherwise unable to finance such housing and related facilities upon terms and conditions which they can afford. The program shall (1) specify the minimum and maximum standards for such housing and related facilities (not to exceed an average of $10,875 per dwelling unit); (2) to the extent feasible, encourage the proposed users of such housing and related facilities to utilize mutual and self-help in the construction thereof; and (3) provide experience, and encourage continued participation, in self-government and individual home ownership.

(b) Amount of grants.

Grants under this section shall not exceed 75 per centum of the aggregate cost of the housing and related facilities to be constructed under an approved program.

(c) Authorization of appropriations.

There is authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this section. (Pub. L. 89–754, title X, § 1004, Nov. 3, 1966, 80 Stat. 1284; Pub. L. 91–152, title II, § 220, Dec. 24, 1969, 83 Stat. 390.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–152 substituted "$10,875" for "$7,500".

§§ 3372, 3373. Repealed. Pub. L. 91–609, title V, § 503(6), Dec. 31, 1970, 84 Stat. 1786.

Section 3372, Pub. L. 89–754, title X, § 1010, Nov. 3, 1966, 80 Stat. 1286; Pub. L. 90–448, title XVII, § 1704, Aug. 1, 1968, 82 Stat. 603; Pub. L. 91–152, title IV, §§ 402, 417, Dec. 24, 1969, 83 Stat. 395, 401, related to application of advances in technology to housing and urban development and provided for: statement of purpose and duties of Secretary; objectives of research and studies; execution of research and studies directly or by contract, acquisition of property, and limitation on contracts; authorization of appropriations and availability of funds for expenditures; and limitation of authority under other provisions of law. See sections 1701z–1 to 1701z–4 of Title 12, Banks and Banking.

Section 3373, Pub. L. 89–754, title X, § 1011, Nov. 3, 1966, 80 Stat. 1287, related to environmental studies and provided for: Congressional findings and comprehensive program of research, studies, surveys, and analyses; powers and duties of Secretary; advisory committees, functions, personnel, compensation, travel, and other necessary expenses; execution of studies, surveys, research, and analyses directly or by contract, and limitation on contracts; and authorization of appropriations and availability of funds for expenditures. See sections 1701z–1 to 1701z–4 of Title 12, Banks and Banking.

§ 3374. Acquisition of property at or near military bases which have been ordered to be closed.

(a) Authorization; conditions precedent.

Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling which is situated at or near a military base or installation which the Department of Defense has, subsequent to November 1, 1964, ordered to be closed in whole or in part, if he determines—

(1) that the owner of such property is, or has been, a Federal employee employed at or in connection with such base or installation (other than a temporary employee serving under a time limitation) or a serviceman assigned thereto;

(2) that the closing of such base or installation, in whole or in part, has required or will require the termination of such owner's employment or service at or in connection with such base or installation; and

(3) that as the result of the actual or pending closing of such base or installation in whole or in part, or if as the result of such action and other similar action in the same area, there is no present market for the sale of such property upon reasonable terms and conditions.

(b) Eligibility for benefits; criteria.

In order to be eligible for the benefits of this section such employees or military personnel must be or have been—

(1) assigned to or employed at or in connection with the installation or activity at the time of public announcement of the closure action,

(2) transferred from such installation or activity, or terminated as employees as a result of reduction-in-force, within six months prior to public announcement of the closure action, or

(3) transferred from the installation or activity on an overseas tour unaccompanied by dependents within fifteen months prior to public announcement of the closure action:

Provided, That, at the time of public announcement of the closure action, or at the time of transfer or termination as set forth above, such personnel or employees must—

(i) have been the owner-occupant of the dwelling, or

(ii) have vacated the owned dwelling as a result of being ordered into on-post housing during a six-month period prior to the closure announcement:

Provided further, That as a consequence of such closure such employees or personnel must—

(i) be required to relocate because of military transfer or acceptance of employment beyond a normal commuting distance from the dwelling for which compensation is sought, or

(ii) be unemployed, not as a matter of personal choice, and able to demonstrate such financial hardship that they are unable to meet their mortgage payments and related expenses.

(c) Election of benefits; mortgage loan encumbrance; foreclosure expenses.

Such persons as the Secretary of Defense may determine to be eligible under the criteria set forth above shall elect either (1) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between (A) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation and (B) the fair market value of such property (as such value is so determined) at the time of the sale, or (2) to receive, as purchase price for their property, an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages. Cash payment as compensation for losses sustained in a private sale shall not be made in any case in which the property is encumbered by a mortgage loan guaranteed, insured, or held by a Federal agency unless such mortgage loan is paid, assumed by a purchaser satisfactory to such Federal agency, or otherwise fully satisfied at or prior to the time such cash payment is made. Except in cases of payment as compensation for losses, in the event of foreclosure by mortgagees commenced on or after public announcement of intention to close all or part of the military base or installation the Secretary of Defense may reimburse or pay on account of eligible persons such sums as may be paid or be otherwise due and owing by such persons as the result of such foreclosure, including (without limiting the generality of the foregoing) direct costs of judicial foreclosure, expenses and liabilities enforceable according to the terms of their mortgages or promissory notes, and the amount of debts, if any, established against such persons by a Federal agency in the case of loans made, guaranteed, or insured by such agency following liquidation of the security for such loans.

(d) Fund for extension of financial assistance; capital and receipts; availability of monies; covering into Treasury as miscellaneous receipts; Federal title to and control of property; other laws unaffected; foreign properties, exclusion.

There shall be in the Treasury a fund which shall be available to the Secretary of Defense for the purpose of extending the financial assistance provided above. The capital of such fund shall consist of such sums as may, from time to time, be appropriated thereto, and shall consist also of receipts from the management, rental, or sale of properties acquired under this section, which receipts shall be credited to the fund and shall be available, together with funds appropriated therefor, for purchase or reimbursement purposes as provided above, as well as to defray expenses arising in connection with the acquisition, management, and disposal of such properties, including payment of principal, interest, and expenses of mortgages or other indebtedness thereon, and including the cost of staff services and contract services, costs of insurance, and other indemnity. Any part of such receipts not required for such expenses shall be covered into the Treasury as miscellaneous receipts. Properties acquired under this section shall be conveyed to, and acquired in the name of, the United States. The Secretary of Defense shall have the power to deal with, rent, renovate, and dispose of, whether by sales for cash or credit or otherwise, any properties so acquired: *Provided, however,* That no contract for acquisition, or acquisition, shall be deemed to constitute a contract for or acquisition of family housing units in support of military installations or activities within the meaning of section 1594i(a) of this title, nor shall it be deemed a transaction within the contemplation of section 2662 of Title 10: *Provided further,* That no properties in foreign countries shall be acquired under this section.

(e) Fund as source of payments to States in lieu of taxes; limitation on amount; allowance for public service expenditures.

Payments from the fund created by this section may be made in lieu of taxes to any State or political subdivision thereof, with respect to real property, including improvements thereon, acquired and held under this section. The amount so paid for any year upon such property shall not exceed the taxes which would be paid to the State or subdivision, as the case may be, upon such property if it were not exempt from taxation, and shall reflect such allowance as may be considered appropriate for expenditures, if any, by the Government for streets, utilities, or other public services to serve such property.

(f) Title requirements; terms and conditions of payment; finality of decisions.

The title to any property acquired under this section, the eligibility for, and the amounts of, cash payable, and the administration of the preceding provisions of this section, shall conform to such requirements, and shall be administered under such conditions and regulations, as the Secretary of Defense may prescribe. Such regulations shall also prescribe the terms and conditions under which payments may be made and instruments accepted under this section, and all the determinations and decisions made pursuant to such regulations by the Secretary of Defense regarding such payments and conveyances and the terms and conditions under which they are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(g) Agreements between executive departments; delegation of functions; finality of determinations; availability of Fund.

The Secretary of Defense is authorized to enter into such agreement with the Secretary of Housing and Urban Development as may be appropriate for the purposes of economy and efficiency of administration of this section. Such agreement may provide authority to the Secretary of Housing and Urban Development and his designee to make any or all of the determinations and take any or all of the actions which the Secretary of Defense is authorized to undertake pursuant to the preceding provisions of this section. Any such determinations shall be entitled to finality to the same extent as if made by the Secretary of Defense, and, in event the Secretaries of Defense and Housing and Urban Development so elect, the fund established pursuant to subsection (d) of this section shall be available to

the Secretary of Housing and Urban Development to carry out the purposes thereof.

(h) Specific authorization for funds; expenditure of monies in Fund.

No funds may be appropriated for the acquisition of any property under authority of this section unless such funds have been specifically authorized for such purpose in a military construction authorization act, and no moneys in the fund created pursuant to subsection (d) of this section may be expended for any purpose except as may be provided in appropriation Acts.

(i) Reduction of operations at military base or installation.

The authority provided by this section to the Secretary of Defense shall also be available when the Department of Defense has ordered a reduction in the scope of operations at a military base or installation. All references in subsections (a), (b), and (c) of this section to "closures" or "closings" or words of similar effect shall be deemed to include the reduction in scope of operations at a base or installation. (Pub. L. 89–754, title X, § 1013(a)–(g), (i), Nov. 3, 1966, 80 Stat. 1290–1292; Pub. L. 91–142, title VI, § 602, Dec. 5, 1969, 83 Stat. 313; Pub. L. 91–511, title VI, § 612, Oct. 26, 1970, 84 Stat. 1225.)

CODIFICATION

Section is comprised of subsecs. (a)–(g) and (i) of section 1013 of Pub. L. 89–754, such subsec. (i) being classified to subsec. (h) of this section. Subsecs. (h) and (j) of such section 1013 amended section 1715n(a)(8) and repealed section 1735h of Title 12, Banks and Banking, such repealed section now being covered by this section.

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91–511 inserted "or if as the result of such action and other similar action in the same area," after "part,".

Subsec. (i). Pub. L. 91–511 added subsec. (i). Letter designation of the added subsection was, in the original "(k)" which, for purposes of classification, was changed to "(i)".

1969—Subsec. (c). Pub. L. 91–142, § 602(a), deleted "and prior to the one hundred and twentieth day after November 3, 1966," following "installation" in the third sentence.

Subsec. (d). Pub. L. 91–142, § 602(b), excluded the acquisition of foreign properties under this section.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 612 of Pub. L. 91–511 provided in part that the amendment by Pub. L. 91–511 is effective Oct. 28, 1969.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1472, 1483 of this title and in title 12 sections 1715n and 1717.

Chapter 42.—NARCOTIC ADDICT REHABILITATION

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 3401. Declaration of policy.

It is the policy of the Congress that certain persons charged with or convicted of violating Federal

criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction. (Pub. L. 89–793, § 2, Nov. 8, 1966, 80 Stat. 1438.)

CODIFICATION

Section was not enacted as a part of the Narcotic Addict Rehabilitation Act of 1966, which is classified to subchapters II and III of this chapter, chapter 314 of Title 18, Crimes and Criminal Procedure, and chapter 175 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 605 of Pub. L. 89–793 provided that: "Title I of this act [classified to chapter 175 (section 2901 et seq.) of Title 28] shall take effect three months after the date of its enactment [Nov. 8, 1966], and shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to such effective date. Titles II [classified to chapter 314 (section 4251 et seq.) of Title 18] and V of this Act [amending section 7237(d) of Title 26 and enacting provisions set out as note under section 4202 of Title 18] shall take effect three months after the date of its enactment [Nov. 8, 1966] and shall apply to any case pending in any court of the United States in which sentence has not yet been imposed as of such effective date. Title III of this Act [classified to section 3411 et seq. of this title] shall take effect three months after the date of its enactment [Nov. 8, 1966]."

SHORT TITLE

Section 1 of Pub. L. 89–793 provided: "That titles I, II, III, and IV of this Act [enacting subchapters II and III of this chapter, chapter 314 (section 4251 et seq.) of Title 18, Crimes and Criminal Procedure, and chapter 175 (section 2901 et seq.) of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Narcotic Addict Rehabilitation Act of 1966'."

SEPARABILITY OF PROVISIONS

Section 604 of Pub. L. 89–793 provided that: "If any provision of this Act [which enacted this chapter, chapter 314 of Title 18, and chapter 175 of Title 28, amended section 257 of this title and section 7237(d) of Title 26, and enacted provisions set out as notes under this section and section 4202 of Title 18] or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

AUTHORIZATION OF APPROPRIATIONS

Section 607 of Pub. L. 89–793 provided that: "There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act [which enacted this chapter, chapter 314 of Title 18, Crimes and Criminal Procedure, and chapter 175 of Title 28, Judiciary and Judicial Procedure, amended section 257 of this title and section 7237(d) of Title 26, Internal Revenue Code, and enacted provisions set out as notes under this section and section 4202 of Title 18]."

REORGANIZATION PLAN NO. 3 OF 1966

Section 606 of Pub. L. 89–793 provided that: "The provisions of this Act [which enacted this chapter, chapter 314 of Title 18, and chapter 175 of Title 28, amended section 257 of this title and section 7237(d) of Title 26, and enacted provisions set out as notes under this section and section 4202 of title 18] shall be subject to the provisions of Reorganization Plan No. 3 of 1966."

§ 3402. State facilities and personnel for care and treatment; encouragement of adequate provision; benefit of experience of Surgeon General and Attorney General.

The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction. (Pub. L. 89–793, title VI, § 602, Nov. 8, 1966, 80 Stat. 1450.)

CODIFICATION

Section was not enacted as a part of the Narcotic Addict Rehabilitation Act of 1966, which is classified to subchapters II and III of this chapter, chapter 314 of Title 18, Crimes and Criminal Procedure, and chapter 175 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER II.—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

§ 3411. Definitions.

For the purposes of this subchapter the term—

(a) "Narcotic addict" means any individual who habitually uses any narcotic drug as defined in section 802(16) of Title 21, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts, and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.

(e) "Patient" means any person with respect to whom a petition has been filed by a United States attorney as provided under subsection (b) of section 3412 of this title.

(f) "Posthospitalization program" shall mean any program providing for the treatment and supervision of a person established by the Surgeon General pursuant to section 3417 of this title.

(g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(h) "United States" includes the Commonwealth of Puerto Rico.

(i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

(Pub. L. 89–793, title III, § 301, Nov. 8, 1966, 80 Stat. 1444; Pub. L. 91–513, title III, § 1102(p), Oct. 27, 1970, 84 Stat. 1293.)

AMENDMENTS

1970—Pub. L. 91–513 substituted "as defined in section 802(16) of Title 21" for "as defined by section 4731 of Title 26" in the definition of narcotic addict.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91–513, set out as a note under section 951 of Title 21, Food and Drugs.

EFFECTIVE DATE

Subchapter effective three months after Nov. 8, 1966, see section 605 of Pub. L. 89–793, set out as a note under section 3401 of this title.

SAVINGS PROVISIONS

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91–513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91–513, set out as a note under section 171 of Title 21, Food and Drugs.

§ 3412. Preliminary proceedings.

(a) Petition for treatment.

Except as otherwise provided in section 3421 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person be admitted to a hospital of the Service for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

(b) Petition for confinement; consultations respecting availability of facilities.

After considering such petition, the United States attorney shall, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States district court to commit such person to a hospital of the Service for treatment as provided in this subchapter. In making his determination with respect to the nonavailability of such facilities, the United States attorney shall consult with the Surgeon General, and other appropriate State or local officials.

(c) Order for medical examination and hearing; personal service.

Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 3413 of this title and for a hearing, if required, under section 3414 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient by a United States marshal. (Pub. L. 89–793, title III, § 302, Nov. 8, 1966, 80 Stat. 1444.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3411, 3413, 3426 of this title.

§ 3413. Judicial proceedings; advisement of patient: counsel, retained physician's authority, treatment program of commitment, withdrawal, duration, confinement, postconfinement, and recommitment; examination of patient: appointment of physicians, order of commitment, conduct and report of examination, and copies to patient and counsel; return of patient for further proceedings.

The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 3412 of his right to have (1) counsel at every stage of the judicial proceedings under this subchapter and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event shall such physician be entitled to participate in any such examination or in the making of any report required under this section with respect to such examination. The court shall also advise such patient that if, after an examination and hearing as provided in this subchapter, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including posthospitalization treatment and supervision) may last forty-two months; that during treatment he will be confined in an institution; that for a period of three years following his release from confinement he will be under the care and custody of the Surgeon General for treatment and supervision under a posthospitalization program established by the Surgeon General; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it shall determine, not to exceed thirty days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with

respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under this subchapter. Copies of such reports shall be made available to the patient and his counsel. (Pub. L. 89–793, title III, § 303, Nov. 8, 1966, 80 Stat. 1445.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3412, 3414 of this title.

§ 3414. Hearings.

(a) Discharge of patient and dismissal of proceedings; notice of time and place; service; issues of fact: demand for jury or judicial determination.

If both examining physicians (referred to in section 3413 of this title) conclude in their respective written reports that the patient is not a narcotic addict, or is an addict not likely to be rehabilitated through treatment, the court shall immediately enter an order discharging the patient and dismissing the proceedings under this subchapter. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

(b) Evidence; patient's testimony; examinations and cross-examinations; judicial review of orders of commitment.

In conducting any hearing under this subchapter, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 3413 of this title. Any patient with respect to whom a hearing is held under this subchapter shall be entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this subchapter shall be subject to review in conformity with the provisions of sections 1254 and 1291 of Title 28.

(c) Detention of patient.

Any patient with respect to whom a hearing has been set under this subchapter may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

(d) Witness fees and mileage.

Witnesses subpenaed by either party under the provisions of this subchapter shall be paid the same fees and mileage as are paid to other witnesses in the courts of the United States. (Pub. L. 89–793, title III, § 304, Nov. 8, 1966, 80 Stat. 1446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3412 of this title.

§ 3415. Order of commitment for treatment to care and custody of Surgeon General; reports of Surgeon General.

If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court shall order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Service. The Surgeon General shall submit to the court written reports with respect to such patient at such times as the court may direct. Such reports shall include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient. (Pub. L. 89–793, title III, § 305, Nov. 8, 1966, 80 Stat. 1446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3416 of this title.

§ 3416. Period of commitment to care and custody of Surgeon General; patient subject to posthospitalization program; release from confinement.

Any patient committed to the care and custody of the Surgeon General pursuant to section 3415 of this title shall be committed for a period of six months, and shall be subject to such posthospitalization program as may be established pursuant to section 3417 of this title; except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable. (Pub. L. 89–793, title III, § 306, Nov. 8, 1966, 80 Stat. 1446.)

§ 3417. Release from confinement.

(a) Notice and return to committing court; placing patient under care and custody of Surgeon General for posthospitalization treatment; recommendations of Surgeon General.

Whenever any patient under the care and custody of the Surgeon General pursuant to this subchapter is to be released from confinement in accordance with the provisions thereof, the Surgeon General shall give notice of such pending release to the committing court within ten days prior thereto and shall, at the time of the patient's release, promptly return him to that court. The court, after considering the recommendations of the Surgeon General with respect to posthospitalization treatment for any such patient so returned, may place such patient under the care and custody of the Surgeon General for the three-year period immediately following the patient's release, for treatment and supervision under such posthospitalization program as the Surgeon General may direct.

(b) Return to committing court for recommitment and submission to posthospitalization treatment.

If, at any time during such three-year period, any patient (1) fails or refuses to comply with the direc-

tions and orders of the Surgeon General in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the Surgeon General to be again using narcotic drugs, the Surgeon General may order such patient's immediate return to the committing court which may recommit such patient to a hospital of the Service for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program in accordance with subsection (a) of this section. (Pub. L. 89–793, title III, § 307, Nov. 8, 1966, 80 Stat. 1446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3411, 3416, 3418 of this title.

§ 3418. Petition for inquiry into health and general condition and necessity for continuation of confinement; order for release from confinement and return to court; placing patient under posthospitalization treatment.

The court, upon the petition of any patient after his confinement pursuant to this subchapter for a period in excess of three months, shall inquire into the health and general condition of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it shall order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a posthospitalization program in accordance with the provisions of subsection (a) of section 3417 of this title. (Pub. L. 89–793, title III, § 308, Nov. 8, 1966, 80 Stat. 1447.)

§ 3419. Criminal conviction or criminal appellation from determination of being narcotic addict; criminal proceedings prohibited from using information gained in addiction inquiry.

Any determination by the court pursuant to this subchapter that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test, or procedure to determine narcotic addiction of any patient under this subchapter shall not be used against such patient in any criminal proceeding. (Pub. L. 89–793, title III, § 309, Nov. 8, 1966, 80 Stat. 1447.)

§ 3420. Evidence; examining physician a competent and compellable witness; physician-patient privilege.

Any physician conducting an examination under this subchapter shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this subchapter and the physician-patient privilege shall not be applicable. (Pub. L. 89–793, title III, § 310, Nov. 8, 1966, 80 Stat. 1447.)

§ 3421. Subchapter inapplicable to persons with criminal charge pending, on probation, or with sentence unserved; consent to commitment of such persons by authority with power over their custody.

The provisions of this subchapter shall not be applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision shall be applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment. (Pub. L. 89–793, title III, § 311, Nov. 8, 1966, 80 Stat. 1447.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3412 of this title.

§ 3422. Commitment to hospital of the Service dependent upon certification of availability of facilities or personnel for treatment.

Notwithstanding any other provision of this subchapter, no patient shall be committed to a hospital of the Service under this subchapter if the Surgeon General certifies that adequate facilities or personnel for treatment of such patient are unavailable. (Pub. L. 89–793, title III, § 312, Nov. 8, 1966, 80 Stat. 1447.)

§ 3423. Compensation of physicians and counsel; source of funds.

Physicians appointed by the court to examine any person pursuant to this subchapter and counsel assigned by the court to represent any person in judicial proceedings under this subchapter shall be entitled to reasonable compensation, in an amount to be determined by the court, to be paid, upon order of the court, out of such funds as may be provided by law. (Pub. L. 89–793, title III, § 313, Nov. 8, 1966, 80 Stat. 1447.)

§ 3424. Authority of Surgeon General.

(a) Delegation of functions.

The Surgeon General may from time to time make such provisions as he deems appropriate authorizing the performance of any of his functions under this subchapter by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

(b) Arrangements making available, on a reimbursable basis or otherwise, facilities or services of agencies or persons for examination or treatment.

The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals pursuant to the provisions of this subchapter. (Pub. L. 89–793, title III, § 314, Nov. 8, 1966, 80 Stat. 1448.)

§ 3425. Penalties; escape or rescue from custody.

Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this subchapter, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of Title 18. (Pub. L. 89–793, title III, § 315, Nov. 8, 1966, 80 Stat. 1448.)

§ 3426. Same; false statements.

Any person who knowingly makes any false statement to the United States attorney in any petition under section 3412(a) of this title shall be subject to the penalty prescribed in section 1001 of Title 18. (Pub. L. 89–793, title III, § 316, Nov. 8, 1966, 80 Stat. 1448.)

SUBCHAPTER III.—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

§ 3441. Outpatient services; establishment.

The Surgeon General is authorized to establish, as an integral part of the program of treatment for narcotic addiction authorized by section 257 of this title, outpatient services to (1) provide guidance and give psychological help and supervision to patients and other individuals released from hospitals of the Service after treatment for narcotic drug addiction, utilizing all available resources of local, public and private agencies, and (2) assist States and municipalities in developing treatment programs and facilities for individuals so addicted, including posthospitalization treatment programs and facilities for the care and supervision of narcotic addicts released after confinement under this or any other Act providing for treatment of drug addiction. The Surgeon General shall take into consideration in supplying such services the extent of drug addiction in the various States and political subdivisions thereof and the willingness of such States and subdivisions to cooperate in developing a sound program for the care, treatment, and rehabilitation of narcotic addicts. (Pub. L. 89–793, title IV, § 401, Nov. 8, 1966, 80 Stat. 1448.)

REFERENCES IN TEXT

"This Act", referred to in cl. (2), means Pub. L. 89–793, which enacted this chapter, chapter 314 of Title 18, and chapter 175 of Title 28, amended section 257 of this title and section 7237(d) of Title 26, and enacted provisions set out as notes under section 3401 of this title and section 4202 of Title 18.

§ 3442. Repealed. Pub. L. 90–574, title III, § 303(b), Oct. 15, 1968, 82 Stat. 1011.

Section, Pub. L. 89–793, title IV, § 402, Nov. 8, 1966, 80 Stat. 1448, authorized appropriations for grants to the states and political subdivisions thereof and to private organizations and institutions for the development of narcotic addict rehabilitation and treatment programs.

SAVINGS PROVISIONS

Section 303(b) of Pub. L. 90–574 provided in part that: "There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants to continue the projects for which commitments were made under section 402(a) of the Narcotic Addict Rehabilitation Act of 1966 [formerly subsec. (a) of this section], but such grants may be made only for the periods specified in such commitments for such projects."

Chapter 43.—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sec.
3501. Establishment of Department; effective date.
3501a. Additional Assistant Secretaries.
3502. Assistant Secretary for Administration; appointment and duties.
3503. General Counsel; appointment; compensation; chief legal officer; duties.
3504. General Counsel; appointment.
3505. Seal.
3505a. Office of Population Affairs; establishment; Deputy Assistant Secretary for Population Affairs; appointment; staff and consultants.
3505b. Functions and duties of Deputy Assistant Secretary for Population Affairs.
3505c. Plans and reports.
3506. Travel and subsistence expenses of officers and employees in connection with attendance at meetings or in performing advisory services.
3507. Transfer of personnel and household goods; delegation of Secretary's authority.
3508. Motor vehicle transfers between bureaus and offices.
3509. Annual report on advisory councils.
3510. Working Capital Fund; availability for centralized personnel data collection and reporting and common regional administrative support services.

§ 3501. Establishment of Department; effective date.

The provisions of Reorganization Plan Numbered 1 of 1953, submitted to the Congress on March 12, 1953, shall take effect ten days after the date of the enactment of this section, and its approval by the President, notwithstanding the provisions of the Reorganization Act of 1949, as amended, except that section 9 of such Act shall apply to such reorganization plan and to the reorganization made thereby. (Apr. 1, 1953, ch. 14, 67 Stat. 18.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in the text, which created a Department of Health, Education and Welfare, is set out as a note under this section.

The Reorganization Act of 1949, as amended, referred to in the text, is now covered by sections 901–913 of Title 5, Government Organization and Employees.

Section 9 of such Act, referred to in the text, is classified to section 907(a)(c) of Title 5.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Health, Education, and Welfare, see Parts 1, 11, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

REORGANIZATION PLAN NO. 1 OF 1953

18 F. R. 2053, 67 Stat. 631, as amended Pub. L. 88–426, title III, § 305 (44), Aug. 14, 1964, 78 Stat. 428; Pub. L. 89–115, § 4(b), Aug. 9, 1965, 79 Stat. 449

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of Title 5, Government Organization and Employees].

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

§ 1. CREATION OF DEPARTMENT; SECRETARY

There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

§ 2. UNDER SECRETARY AND ASSISTANT SECRETARIES

There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such

functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

§ 3. Special Assistant

[Section provided for the appointment of a Special Assistant to the Secretary (Health and Medical Affairs), which office was abolished by Pub. L. 89–115, § 4(b), Aug. 9, 1965, 79 Stat. 449.].

§ 4. Commissioner of Social Security

There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS–18 of the general schedule established by the Classification Act of 1949, as amended [see section 5332 of Title 5].

§ 5. Transfers to the Department

All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

§ 6. Performance of Functions of the Secretary

The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 7. Administrative Services

In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided,* That no professional or substantive function vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

§ 8. Abolitions

The Federal Security Agency (exclusive of the agencies thereof transferred by sec. 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. I (53 Stat. 1423) [set out in the Appendix to Title 5], the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No. 2 of 1946 (60 Stat. 1095) [set out in the Appendix to Title 5], and the office of Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558) [formerly section 901 of this title], are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and offices abolished by this section which are not otherwise provided for in this reorganization plan.

§ 9. Interim Provisions

The President may authorize the persons who immediately prior to the time this reorganization plan takes effect occupy the offices of Federal Security Administrator, Assistant Federal Security Administrator, assistant heads of the Federal Security Agency, and Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period of more than 60 days. While so acting, such persons shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

Cross References

Annual rates of basic compensation of Secretary, see section 5312(10) of Title 5, Government Organization and Employees. Assistant Secretaries, see section 5315(17) of Title 5, Under Secretary see section 5314(7) of Title 5.

§ 3501a. Additional Assistant Secretaries.

There shall be in the Department of Health, Education, and Welfare, in addition to the Assistant Secretaries now provided for by law, three additional Assistant Secretaries of Health, Education, and Welfare, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of section 2 of the Reorganization Plan Numbered 1 of 1953 shall be applicable to such additional Assistant Secretaries to the same extent as they are applicable to the Assistant Secretaries authorized by that section. (Pub. L. 89–115, § 4(a), Aug. 9, 1965, 79 Stat. 449.)

References in Text

Reorganization Plan Numbered 1 of 1953, referred to in the text, is set out as a note under section 3501 of this title.

§ 3502. Assistant Secretary for Administration; appointment and duties.

There shall be in the Department of Health, Education, and Welfare an Assistant Secretary of Health, Education, and Welfare for Administration who shall be appointed, with the approval of the President, by the Secretary of Health, Education, and Welfare under the classified civil service, who shall perform such duties as the Secretary shall prescribe. (Pub. L. 86–568, title II, § 202, July 1, 1960, 74 Stat. 305; Pub. L. 88–426, title III, § 305(34), Aug. 14, 1964, 78 Stat. 426.)

Amendments

1964—Pub. L. 88–426 repealed provisions which prescribed the compensation of the Administrative Assistant Secretary.

Change of Name

"Assistant Secretary of Health, Education, and Welfare for Administration" was subsituted for "Administrative Assistant Secretary of Health, Education, and Welfare" pursuant to section 307 of Pub. L. 88–426.

Effective Date of 1964 Amendment

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

Effective Date

Section effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86–568.

Cross References

Annual rate of basic compensation of Assistant Secretary, see section 5316 of Title 5, Government Organization and Employees.

§ 3503. General Counsel; appointment; compensation; chief legal officer; duties.

CODIFICATION

Section, act July 31, 1956, ch. 802, § 2, 70 Stat. 733, provided for the appointment and compensation of a General Counsel in the Department of Health, Education, and Welfare, and has been omitted in view of section 3504 of this title, which abolished the office as it existed on July 31, 1956, upon appointment and qualification of General Counsel provided for by section 3504(a) of this title, or April 1, 1957 whichever occurred earlier. See section 3504(b) of this title.

§ 3504. General Counsel; appointment.

(a) The President shall appoint on and after July 31, 1956, by and with the advice and consent of the Senate, a General Counsel of the Department of Health, Education, and Welfare.

(b) The existing office of General Counsel of the Department of Health, Education, and Welfare shall be abolished effective upon the appointment and qualification of the General Counsel provided for by subsection (a) of this section or April 1, 1957, whichever is earlier. (July 31, 1956, ch. 804, title III, § 301, 70 Stat. 742.)

CROSS REFERENCES

Annual rate of basic compensation of General Counsel, see section 5315 of Title 5, Government Organization and Employees.

§ 3505. Seal.

The Secretary of the Department of Health, Education, and Welfare is authorized to adopt an official seal to be used as directed by the said Secretary on appropriate occasions in connection with the functions of such Department or of any office, bureau, board, or establishment which is or shall hereafter become a part of such Department, and such seal shall be judicially noticed. Copies of any books, records, papers, or other documents in the Department of Health, Education, and Welfare shall be admitted in evidence equally with the originals thereof when authenticated under such seal. (May 9, 1941, ch. 97, 55 Stat. 184; 1953 Reorg. Plan No. I, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 3501 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of said 1953 Reorg. Plan No. 1.

CREATION OF FEDERAL SECURITY AGENCY

The Federal Security Agency was creaated by 1939 Reorg. Plan No. 1, § 201, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3505a. Office of Population Affairs; establishment; Deputy Assistant Secretary for Population Affairs; appointment; staff and consultants.

(a) There is established within the Department of Health, Education, and Welfare an Office of Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions. (Pub. L. 91-572, § 3, Dec. 24, 1970, 84 Stat. 1504.)

§ 3505b. Functions and duties of Deputy Assistant Secretary for Population Affairs.

The Secretary shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws for which the Secretary has administrative responsibility and which provide for or authorize the making of grants or contracts related to population research and family planning programs;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported by the Department through grants to, or contracts with, entities and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested persons and public and private entities;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning;

(5) to provide or support training for necessary manpower for domestic programs of population research and family planning programs of service and research; and

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to population research and family planning and to make periodic recommendations to the Secretary.

(Pub. L. 91-572, § 4, Dec. 24, 1970, 84 Stat. 1505.)

§ 3505c. Plans and reports.

(a) Not later than six months after December 24, 1970, the Secretary shall make a report to the Congress setting forth a plan, to be carried out over a period of five years, for extension of family planning services to all persons desiring such services, for family planning and population research programs, for training of necessary manpower for the programs authorized by title X of the Public Health Service Act and other Federal laws for which the Secretary has responsibility, and for carrying out the other purposes set forth in this Act and in such title X.

(b) Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under title X of the Public Health Service Act and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet these objectives; and

(3) the steps to be taken to establish a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) On or before January 1, 1972, and on or before each January 1 thereafter for a period of five years, the Secretary shall submit to the Congress a report which shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan;

(2) indicate steps being taken to achieve the objectives during the remaining fiscal years of the plan and any revisions necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan.

(Pub. L. 91–572, § 5, Dec. 24, 1970, 84 Stat. 1505.)

REFERENCES IN TEXT

Title X of the Public Health Service Act, referred to in the text, is Title X of the Act of July 1, 1944, and is classified to subchapter VIII of chapter 6A of this title.

This Act, referred to in the text, is Pub. L. 91–572. For distribution of such Act, see Short Title note set out under section 300 of this title.

§ 3506. Travel and subsistence expenses of officers and employees in connection with attendance at meetings or in performing advisory services.

To the extent and under the conditions provided by regulations of the Secretary, officers (including commissioned officers of the Public Health Service) and employees of the Department of Health, Education, and Welfare may on and after June 29, 1957, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department, be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and subsistence expenses, to be retained by them to cover the cost thereof or deposited to the credit of the appropriation from which the cost thereof is paid, as may be provided in such regulations. (Pub. L. 85–67, title II, § 211, June 29, 1957, 71 Stat. 224.)

§ 3507. Transfer of personnel and household goods; delegation of Secretary's authority.

The Secretary of Health, Education, and Welfare may delegate to such officers and employees as he may designate for the purpose all his authority in connection with the transfer of personnel and household goods and effects from one official station to another. (July 12, 1943, ch. 221, title II, § 201, 57 Stat. 513; 1953 Reorg. Plan No. I, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 3501 of this title. The Federal Security Agency and the office of Administrator were abolished by section 8 of said 1953 Reorg. Plan No. 1.

SIMILAR PROVISIONS

Section is from the Labor-Federal Security Appropriation Act, 1944. Similar provisions were carried in the following acts:

1942—July 2, 1942, ch. 475, title II, § 201, 56 Stat. 587; Apr. 28, 1942, ch. 247, title III, § 301, 56 Stat. 235.

§ 3508. Motor vehicle transfers between bureaus and offices.

The Secretary is authorized to make such transfers of motor vehicles, between bureaus and offices, without transfer of funds, as may be required in carrying out the operations of the Department. (Pub. L. 91–667, title II, § 202, Jan. 11, 1971, 84 Stat. 2015.)

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 89–156, title II, § 202, Aug. 31, 1965, 79 Stat. 608; Pub. L. 89–787, title II, § 202, No. 7, 1966, 80 Stat. 1400; Pub. L. 90–132, title II, § 202, Nov. 8, 1967, 81 Stat. 407; Pub. L. 90–557, title II, § 202, Oct. 11, 1968, 82 Stat. 991; Pub. L. 91–204, title II, § 202, Mar. 5, 1970, 84 Stat. 43.

§ 3509. Annual report on advisory councils.

(a) Not later than March 31 of each calendar year after 1970, the Secretary of the Department of Health, Education, and Welfare shall submit a report on the activities of advisory councils (established or organized pursuant to any applicable statute of the Public Health Service Act, as amended, or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended) to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and occupations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each advisory council.

(b) If the Secretary determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined.

(c) As used in this section, the term "statutory advisory council" means any committee, board, commission, council, or other similar group established or organized pursuant to any applicable statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter. (Pub. L. 91–513, title IV, § 1200, Oct. 27, 1970, 84 Stat. 1296.)

REFERENCES IN TEXT

The Public Health Service Act, as amended, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified to section 201 et seq. of Title 42, The Public Health and Welfare.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended, referred to in subsec. (a), is Pub. L. 88–164, Oct. 31, 1963, 77 Stat. 282, as amended, which is classified principally to section 2661 et seq. of this title.

§ 3510. Working Capital Fund; availability for centralized personnel data collection and reporting and common regional administrative support services.

The Working Capital Fund of the Department of Health, Education, and Welfare shall on and after

January 11, 1971, be available for expenses necessary for centralized personnel data collection and reporting and common regional administrative support services. (Pub. L. 91–667, title II, § 200, Jan. 11, 1971, 84 Stat. 2015.)

Chapter 44.—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12 section 1701d-4.

§ 3531. Congressional declaration of purpose.

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them. (Pub. L. 89–174, § 2, Sept. 9, 1965, 79 Stat. 667.)

EFFECTIVE DATE: INTERIM APPOINTMENTS

Section 11 of Pub. L. 89–174 provided that:

"(a) The provisions of this Act [enacting this chapter and amending sections 101 and 5312 of Title 5 Government Organization and Employees, section 19(d)(1) of Title 3, section 1723 of Title 12, and section 1451(c) of this title] shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President [Sept. 9, 1965], or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a), and 4(b) of this Act [sections 3532(a), 3533(a), and 3533(b) of this title] may be nominated and appoinited, as provided in such sections, at any time after the date this Act is approved by the President [Sept. 9, 1965].

"(b) In the event that one or more officers required by this Act [enacting sections 3531–3533 of this title and amending sections 101 and 5312 of Title 5, section 19(d)(1) of Title 3, section 1723 of Title 12, and section 1451(c) of this title], to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the

first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act."

SHORT TITLE

Section 1 of Pub. L. 89–174 provided; "That this Act [which enacted this chapter, amended former sections 1 and 2211 of Title 5 (now covered by sections 101 and 5312 of Title 5, Government Organization and Employees), section 19(d)(1) of Title 3, The President, section 1723 of Title 12, Banks and Banking, and section 1451(c) of this title] may be cited as the 'Department of Housing and Urban Development Act'."

SAVINGS PROVISIONS: ABATEMENT OF ACTIONS; CONTINUATION OF RULES, REGULATIONS, ETC.; REFERENCES IN OTHER LAWS TO HOUSING AND HOME FINANCE AGENCY; LAPSE OF AGENCIES

Section 9 of Pub. L. 89–174 provided that:

"(a) No cause of action by or against any agency whose functions are transferred by this Act [see Short Title note under this section and section 3534 of this title], or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

"(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act [see Short Title note under this section and section 3534 of this title], or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

"(c) Except as may be otherwise expressly provided in this Act [see Short Title note under this section], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act [see Effective Date note under this section] by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act [section 3534(a) of this title] shall lapse."

TERMINATION OF COUNCIL FOR URBAN AFFAIRS

The Council for Urban Affairs established by Ex. Ord. No. 11452, Jan. 3, 1969, 34 F.R. 1223, as amended, was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 16 of Title 31, Money and Finance. The provisions covering the functions transferred directed the council to advise and assist the President with respect to urban affairs and to perform such other duties as the President might from time to time prescribe. In addition to such duties, the Council was directed to:

(1) Assist the President in the development of a national urban policy, having regard both to immediate and to long-range concerns, and to priorities among them.

(2) Promote the coordination of Federal programs in urban areas.

(3) Encourage the fullest cooperation between Federal, State, and city governments, with special concern for the maintenance of local initiative and local decision making.

(4) Ensure that policies concerning urban affairs shall extend to the relations of urban, suburban, and rural areas, to programs affecting them, and to the movement of population between them.

(5) Seek constant improvement in the actual delivery of public services to citizens.

(6) Foster the decentralization of government with the object that program responsibilities will be vested to the greatest possible extent in state and local government.

(7) Encourage the most effective role possible for voluntary organizations in dealing with urban concerns.

(8) Meet with and advise the President on the occasion of emergency situations, or conditions threatening the maintenance of civil order or civil rights.

§ 3532. Establishment of Department.

(a) Designation; appointment and supervision of Secretary.

There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(b) General duties of Secretary.

The Secretary shall, among his responsibilities, advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State aud[1] local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Denial or limitation of benefits of departmental programs, functions, or activities on basis of population or corporate status of community.

Nothing in this chapter shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this chapter

[1] So in original.

or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law. (Pub. L. 89-174, § 3, Sept. 9, 1965, 79 Stat. 667; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 223.)

REFERENCES IN TEXT

In the original, "this chapter," referred to in subsec. (c), read "this Act", meaning the Department of Housing and Urban Development Act. For distribution of that Act in the Code, see Short Title note under section 3531 of this title.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-83 struck out provision for the compensation to be paid the Secretary.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Secretary of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officer of Housing and Home Finance Agency for that office upon nonentry upon the office upon expiration of first period of sixty calendar days following Sept. 9, 1965, or on earlier date specified by Executive order, see section 11 of Pub. L. 89-174, set out as a note under section 3531 of this title.

ORDER OF SUCCESSION

For order of succession in event of vacancy in office of Secretary, or during his absence or disability, see Ex. Ord. No. 11274, Mar. 30, 1966, 31 F.R. 5243, set out as a note under section 3347 of Title 5, Government Organization and Employees.

EX. ORD. NO. 11297. COORDINATION OF FEDERAL URBAN PROGRAM

Ex. Ord. No. 11297, Aug. 11, 1966, 31 F.R. 10765, provided:

Whereas our Nation has become predominantly urban in character and is confronted by serious problems arising from inherited urban decay and rapid urban growth; and

Whereas the living standards and general welfare of its people depend upon the solution of the problems of urban life; and

Whereas the Congress has provided in the Department of Housing and Urban Development Act [see Short Title note under section 3531 of this title] that the Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) shall "advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; and exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development"; and

Whereas such activities are closely interrelated with other important Federal activities affecting urban areas so that there is a need for maximum consultation and cooperation among Federal departments and agencies in their administration of programs having impact on urban areas; and

Whereas such consultation and cooperation are also essential to enable the Secretary to carry out his responsibilities under that Act to "provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies . . . with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects".

Now, therefore, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1.

Functions of the Secretary of Housing and Urban Development. (a) To assist the Secretary in carrying out his responsibilities pursuant to the Department of Housing and Urban Development Act, he shall convene, or authorize his representatives to convene, meetings at appropriate times and places of the heads, or representatives designated by them, of such Federal departments and agencies with programs affecting urban areas as he deems necessary or desirable for the following purposes:

(1) To provide a forum for consideration of mutual problems concerning Federal programs and activities affecting the development of urban areas and for the exchange of current information needed to achieve coordination of, and to avoid duplication in, such programs and activities.

(2) To promote cooperations among Federal departments and agencies in achieveing consistent policies, practices, and procedures for administration of their programs affecting urban areas.

(3) To consult with and obtain the advice of the Federal departments and agencies with respect to:

(A) consultation and cooperation with State Governors and State and local agencies concerning Federal and State programs for assisting communities;

(B) provision of technical information, a clearinghouse service, and other assistance to State and local governments in solving community and metropolitan development problems; and

(C) encouragement of comprehensive planning of, and effective regional cooperation in, local urban, community, and metropolitan development activities.

(4) To identify urban development problems of particular States, metropolitan areas, or communities which require interagency or intergovermental coordination.

(b) The Secretary shall make arrangements with such Federal departments and agencies for working groups to consider special problems arising with respect to matters described in subsection (a) of this section.

SECTION 2.

Agency responsibilities. The heads of Federal departments and agencies have programs which have an impact on urban areas, or representatives designated by them, shall participate in meetings convened pursuant to this Order and, to the extent permitted by law and funds available, shall furnish information, at the request of the Secretary, pertaining to programs within the responsibilities of such departments or agencies, and such additional information as will assist the Secretary in providing a clearinghouse service to aid State and local governments in developing solutions to community and metropolitan development problems.

SECTION 3.

Construction. Nothing in this Order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SECTION 4.

Administrative arrangements. (a) Each executive department and agency participating under section 1 or section 2 shall furnish necessary assistance for effectuating the provisions of this Order as authorized by section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 U.S.C. 691) [section 691 of Title 31, Money and Finance].

(b) The Department of Housing and Urban Development shall provide necessary administrative services pursuant to this Order.

LYNDON B. JOHNSON.

CROSS REFERENCES

Annual rate of basic compensation of Secretary, see section 5312 of Title 5, Government Organization and Employees.

§ 3533. Officers of Department.

(a) Under Secretary, Assistant Secretaries, and General Counsel: appointment, functions, powers, and duties; Federal Housing Commissioner: head of Federal Housing Administration, powers and duties, administration of departmental programs relating to private mortgage market.

There shall be in the Department an Under Secretary, six Assistant Secretaries, and a General Counsel, who shall be appointed by the President by

and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time. There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market.

(b) Assistant Secretary for Administration; appointment, functions, powers, and duties.

There shall be in the Department an Assistant Secretary for Administration, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(c) Director of Urban Program Coordination; designation; powers and duties; studies of urban and community problems and recommendations for administration of Federal programs affecting such problems.

There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned, and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) Assistant to Secretary; designation; duty to provide information and advice to nonprofit project sponsors.

There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department. (Pub. L. 89–174, § 4, Sept. 9, 1965, 79 Stat. 668; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–284, title VIII, 808(b)(1), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90–448, title XVII, § 1708(a), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–609, title IX, § 917, Dec. 31, 1970, 84 Stat. 1816.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91–609 added subsec. (d).

1968—Subsec. (a). Pub. L. 90–448 increased the number of Assistant Secretaries from five to six.

Pub. L. 90–284 increased the number of Assistant Secretaries from four to five.

1967—Subsec. (a). Pub. L. 90–83 struck out provision setting the compensation for the Under Secretary, Assistant Secretaries, and General Counsel.

Subsec. (b). Pub. L. 90–83 struck out provision covering the compensation to be paid the Assistant Secretary for Administration.

EFFECTIVE DATE; INTERIM APPOINTMENTS

Nomination and appointment of Under Secretary, Assistant Secretaries, General Counsel, Federal Housing Commissioner, and Assistant Secretary for Administration of Department of Housing and Urban Development any time after Sept. 9, 1965, and interim designation and compensation of officers of Housing and Home Finance Agency for those offices upon non-entry upon the offices upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11 of Pub. L. 89–174, set out as a note under section 3531 of this title.

CROSS REFERENCES

Annual rate of basic compensation of under secretaries, assistant secretaries, general counsels, and assistant secretaries for administration of executive departments, see section 5311 et seq. of Title 5, Government Organization and Employees. Classification of civilian positions, see chapter 51 of Title 5.

§ 3533a. Federal Insurance Administrator; establishment of position.

There is hereby established in the Department of Housing and Urban Development the position of Federal Insurance Administrator. (Pub. L. 90–448, title XI, § 1105(a), Aug. 1, 1968, 82 Stat. 567.)

§ 3534. Transfer of functions.

(a) Housing and Home Finance Agency, Federal Housing Administration, and Public Housing Administration.

Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads and other officers and offices of said agencies.

(b) Government National Mortgage Association.

The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department.

(c) Studies of organization of housing and urban development functions and programs and recommendations regarding transfer of such functions and programs to or from the Department.

The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this chapter, none of the functions of the Secretary of the Interior authorized under the Land and Water Conservation Fund Act of 1965 or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of the Reorganization Act of 1949, as amended, or by statute. (Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669; Pub. L. 90–83, § 10(b), Sept. 11, 1967,

81 Stat. 223; Pub. L. 90–448, title VIII, § 807(c), Aug. 1, 1968, 82 Stat. 544.)

REFERENCES IN TEXT

In the original, "this chapter", referred to in subsec. (c), read "this Act", meaning the Department of Housing and Urban Development Act. For distribution of that Act in the Code, see Short Title note under section 3531 of this title.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is classified to section 460*l*–4 et seq. of Title 16, Conservation.

The Reorganization Act of 1949, as amended, referred to in subsec. (c), is classified to sections 901–913 of Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90–448 substituted "Government National Mortgage Association" for "Federal National Mortgage Association", and eliminated provisions which allocated the position of the President of the Federal National Mortgage Association among the positions referred to in section 3535(c) of this title.

1967—Subsec. (b). Pub. L. 90–83 struck out "and the item numbered (94) of section 303(e) of the Federal Executive Salary Act of 1964 of this title" following "The next to the last sentence of section 1723 of Title 12" in the repealing provision.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as a note under section 1716b of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3535 of this title.

§ 3535. Administrative provisions.

(a) Transfer of personnel, assets, etc.

The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 3534 of this title are hereby transferred with such functions, powers, and duties, respectively.

(b) Repealed. Pub. L. 90–448, title VIII, § 807(d), Aug. 1, 1968, 82 Stat. 544.

(c) Employment, compensation, authority, and duties of personnel.

The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as shall be necessary to carry out the provisions of this chapter and to prescribe their authority and duties: *Provided*, That any other provision of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than seven positions in the Department at the annual rate applicable to positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964.

(d) Delegation of authority; rules and regulations.

The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(e) Temporary employment of experts or consultants; compensation.

The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of Title 5.

(f) Working capital fund; establishment; uses; appropriations; capitalization; reimbursement.

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stock of supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) Seal.

The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Financial transactions, finality; checking accounts for funds in Treasury; availability of funds for administrative expenses; consolidation of cash for banking and checking purposes.

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasury of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions,

including amounts appropriated, from whatever source derived.

(i) Foreclosure of property; actions for protection and enforcement of rights; purchase of property; dealing with property after such acquisition; deprivation of State court civil and criminal jurisdiction; impairment of civil rights under State laws; application of section 5 of Title 41; annual payments in lieu of local property taxes; sale and exchanges of property; insurance; modification of interest, time for installment payment, and other terms; other covenants, conditions, and provisions.

Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property: *Provided,* That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further,* That section 5 of Title 41 shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed $2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary.

(j) Fees and charges.

Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k) Gifts and services, acceptance; taxable status of property; investments; disbursements.

(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(*l*) Consultants; appointment of advisory committees; compensation and travel expenses.

The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently.

(m) Occupancy preference in rental housing for military personnel.

Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations. (Pub. L. 89–174, § 7, Sept. 9, 1965, 79 Stat.

669; Pub. L. 90–284, title VIII, § 808(b)(2), Apr. 11, 1968, 82 Stat. 84; Pub. L. 90–448, title VIII, § 807(d), Aug. 1, 1968 82 Stat. 544; Pub. L. 91–609, title I, § 120(c), title IX, §§ 905, 906, Dec. 31, 1970, 84 Stat. 1776, 1809, 1811.)

REFERENCES IN TEXT

In the original, "this chapter", referred to in subsec. (c), read "this Act", meaning the Department of Housing and Urban Development Act. For distribution of that Act in the Code, see Short Title note under section 3531 of this title.

The civil service and classification laws, referred to in subsec. (c), are classified generally to Title 5, Government Organization and Employees and chapter 51 of Title 5, respectively.

Level V of the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964, referred to in subsec. (c), is set out in section 5316 of Title 5.

Section 15 of the Act of Aug. 5, 1946, referred to in subsec. (e), is classified to section 3109 of Title 5.

Civil service laws, referred to in subsec. (*l*), are classified generally to Title 5, Government Organizations and Employees.

Title II of the National Housing Act, referred to in subsec. (m), is classified to section 1707 et seq. of Title 12, Banks and Banking.

Title I of the Housing and Urban Development Act of 1965, referred to in subsec. (m), is a reference to Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, for classification of which in the Code, see Tables Volume.

CODIFICATION

Subsec. (d) is comprised of the first sentence of subsec. (d) of section 7 of Pub. L. 89–174. The second sentence of subsec. (d) repealed the second proviso of section 1451(c) of this title.

AMENDMENTS

1970—Subsec. (e). Pub. L. 91–609, § 906, substituted "for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of Title 5" for "not to exceed $100 per diem for individuals".

Subsecs. (h)–(*l*), Pub. L. 91–609, § 905, added subsecs. (h)–(*l*).

Subsec. (m). Pub. L. 91–609, § 120(c), added subsec. (m).

1968—Subsec. (b). Pub. L. 90–448 repealed former subsec. (b), which restricted transfer of functions in connection with secondary market operations of the Federal National Mortgage Association.

Subsec. (c). Pub. L. 90–284 increased from six to seven the number of positions in the Department whose compensation may be fixed at annual rate applicable to positions in level V.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as a note under section 1716b of Title 12, Banks and Banking.

CROSS REFERENCES

Compensation of positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964, referred to in subsec, (c), see section 5316, Government Organization and Employees of Title 5.

§ 3536. Annual reports.

The Secretary shall, as soon as practicable after the end of each calendar year, made a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year. (Pub. L. 89–174, § 8, Sept. 9, 1965, 79 Stat. 670.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4027 of this title.

§ 3537. Separability of provisions.

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this chapter, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter or its application to other persons and circumstances, but shall be confined in its operation to the provision of this chapter, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered. (Pub L. 89–174, § 10, Sept. 9, 1965, 79 Stat. 671.)

REFERENCES IN TEXT

In the original, "this chapter", referred to in the text, read "this Act", meaning the Department of Housing and Urban Development Act. For distribution of that Act in the Code, see Short Title note under section 3531 of this title.

Chapter 45.—FAIR HOUSING

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SUBCHAPTER I.—GENERALLY

§ 3601. Declaration of policy.

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. (Pub. L. 90–284, title VIII, § 801, Apr. 11, 1968, 82 Stat. 81.)

FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under this subchapter, see section 101(b) of Pub. L. 90–284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

§ 3602. Definitions.

As used in this subchapter—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 3604, 3605, or 3606 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(Pub. L. 90–284, title VIII, § 802, Apr. 11, 1968, 82 Stat. 81.)

§ 3603. Effective dates of certain prohibitions.

(a) Application to certain described dwellings.

Subject to the provisions of subsection (b) of this section and section 3607 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 3604 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: *Provided,* That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) Exemptions.

Nothing in section 3604 of this title (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: *Provided,* That such private individual owner does not own more than three such single-family houses at any one time: *Provided further,* That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: *Provided further,* That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: *Provided further,* That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter

only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) Same; business of selling or renting dwellings defined.

For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Pub. L. 90–284, title VIII, § 803, Apr. 11, 1968, 82 Stat. 82.)

REFERENCES IN TEXT

Upon enactment of this subchapter, referred to in subsec. (a)(1), means April 11, 1968, date of enactment of title VIII of Pub. L. 90–284, classified to this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3604, 3605, 3612, 3617 of this title.

§ 3604. Discrimination in the sale or rental of housing.

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (Pub. L. 90–284, title VIII, § 804, Apr. 11, 1968, 82 Stat. 83.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3603, 3612, 3617 of this title.

§ 3605. Discrimination in the financing of housing.

After December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided,* That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 3603(b) of this title. (Pub. L. 90–284, title VIII, § 805, Apr. 11, 1968, 82 Stat. 83.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3612, 3617 of this title.

§ 3606. Discrimination in the provision of brokerage services.

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin. (Pub. L. 90–284, title VIII, § 806, Apr. 11, 1968, 82 Stat. 84.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3612, 3617 of this title.

§ 3607. Religious organization or private club exemption.

Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a reli-

gious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Pub. L. 90–284, title VIII, § 807, Apr. 11, 1968, 82 Stat. 84.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3603, 3604 of this title.

§ 3608. Administration.

(a) Authority and responsibility.

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) Delegation of authority; appointment of hearing examiners; location of conciliation meetings; administrative review.

The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5362, and 7521 of Title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes.

All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(d) Functions of Secretary.

The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices; and

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter.

(Pub. L. 90–284, title VIII, § 808 (a), (c)–(e), Apr. 11, 1968, 82 Stat. 84, 85.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90–284, which enacted this chapter, sections 231–233, 245, 2101, and 2102 of Title 18, and chapter 15 (section 1301 et seq.) of Title 25, amended sections 1973j (a), (c), 3533(a), and 3535(c) of this title and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under section 245 of Title 18, and repealed provisions set out as a note under section 1360 of Title 28.

CODIFICATION

Subsecs. (a)–(d) of this section are comprised of subsecs. (a), (c)–(e), respectively of section 808 of Pub. L. 90–284. Subsec. (b) of section 808 of Pub. L. 90–284 amended sections 3533(a) and 3535(c) of this title.

§ 3609. Education and conciliation; conferences and consultations; reports.

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate. (Pub. L. 90–284, title VIII, § 809, Apr. 11, 1968, 82 Stat. 85.)

§ 3610. Enforcement.

(a) Person aggrieved; complaint; copy; investigation; informal proceedings; violations of secrecy; penalties.

Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur

(hereafter "person aggrieved") may file a complaint with the Secretary. Complaints shall be in writing and shall contain such information and be in such form as the Secretary requires. Upon receipt of such a complaint the Secretary shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c) of this section, the Secretary shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Secretary decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) Complaint; limitations; answer; amendments; verification.

A complaint under subsection (a) of this section shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Secretary, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) Notification of State or local agency of violation of State or local fair housing law; commencement of State or local law enforcement proceedings; certification of circumstances requisite for action by Secretary.

Wherever a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this subchapter, the Secretary shall notify the appropriate State or local agency of any complaint filed under this subchapter which appears to constitute a violation of such State or local fair housing law, and the Secretary shall take no further action with respect to such complaint if the appropriate State or local law enforcement official has, within thirty days from the date the alleged offense has been brought to his attention, commenced proceedings in the matter, or, having done so, carries forward such proceedings with reasonable promptness. In no event shall the Secretary take further action unless he certifies that in his judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

(d) Commencement of civil actions; State or local remedies available; jurisdiction and venue; findings; injunctions; appropriate affirmative orders.

If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c) of this section, the Secretary has been unable to obtain voluntary compliance with this subchapter, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate United States district court, against the respondent named in the complaint, to enforce the rights granted or protected by this subchapter, insofar as such rights relate to the subject of the complaint: *Provided,* That no such civil action may be brought in any United States district court if the person aggrieved has a judicial remedy under a State or local fair housing law which provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in this subchapter. Such actions may be brought without regard to the amount in controversy in any United States district court for the district in which the discriminatory housing practice is alleged to have occurred or be about to occur or in which the respondent resides or transacts business. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may, subject to the provisions of section 3612 of this title, enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) Burden of proof.

In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Trial of action; termination of voluntary compliance efforts.

Whenever an action filed by an individual, in either Federal or State court, pursuant to this section or section 3612 of this title, shall come to trial the Secretary shall immediately terminate all efforts to obtain voluntary compliance. (Pub. L. 90–284, title VIII, § 810, Apr. 11, 1968, 82 Stat. 85.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3612 of this title.

§ 3611. Evidence.

(a) Investigations; access to records, documents, and other evidence; copying; searches and seizures; subpenas for Secretary; interrogatories; administration of oaths.

In conducting an investigation the Secretary shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: *Provided, however,* That the Secretary first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Secretary may issue subpenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply

if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

(b) Subpenas for respondent.

Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary himself. Subpenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Compensation and mileage fees of witnesses.

Witnesses summoned by subpena of the Secretary shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpena issued at the request of a respondent shall be paid by him.

(d) Revocation or modification of petition for subpena; good reasons for grant of petition.

Within five days after service of a subpena upon any person, such person may petition the Secretary to revoke or modify the subpena. The Secretary shall grant the petition if he finds that the subpena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) Enforcement of subpena.

In case of contumacy or refusal to obey a subpena, the Secretary or other person at whose request it was issued may petition for its enforcement in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

(f) Violations; penalties.

Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpena or lawful order of the Secretary, shall be fined not more than $1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Secretary, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Secretary pursuant to his subpena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(g) Attorney General to conduct litigation.

The Attorney General shall conduct all litigation in which the Secretary participates as a party or as amicus pursuant to this Act. (Pub L. 90–284, title VIII, § 811, Apr. 11, 1968, 82 Stat. 87.)

REFERENCES IN TEXT

This Act, referred to in subsec. (g), means Pub. L. 90–284, which enacted this chapter, sections 231–233, 245, 2101, and 2102 of Title 18, and chapter 15 (section 1301 et seq.) of Title 25, amended sections 1973j (a), (c), 3533 (a), and 3535(c) of this title and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under section 245 of Title 18, and repealed provisions set out as a note under section 1360 of Title 28.

§ 3612. Enforcement by private persons.

(a) Civil action; Federal and State jurisdiction; complaint; limitations; continuance pending conciliation efforts; prior bona fide transactions unaffected by court orders.

The rights granted by sections 3603, 3604, 3605, and 3606 of this title may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: *Provided, however,* That the court shall continue such civil case brought pursuant to this section or section 3610(d) of this title from time to time before bringing it to trial if the court believes that the conciliation efforts of the Secretary or a State or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Secretary or to the local or State agency and which practice forms the basis for the action in court: *And provided, however,* That any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this Act, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Act shall not be affected.

(b) Appointment of counsel and commencement of civil actions in Federal or State courts without payment of fees, costs, or security.

Upon application by the plaintiff and in such circumstances as the court may deem just, a court of the United States in which a civil action under this section has been brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of fees, costs, or security. A court of a State or subdivision thereof may do likewise to the extent not inconsistent with the law or procedures of the State or subdivision.

(c) Injunctive relief and damages; limitation; court costs; attorney fees.

The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than $1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: *Provided,* That the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees. (Pub. L. 90–284, title VIII, § 812, Apr. 11, 1968, 82 Stat. 88.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90–284, which enacted this chapter, sections 231–233, 245, 2101, and 2102 of Title 18, and chapter 15 (section 1301 et seq.) of Title 25, amended sections 1973j (a), (c), 3533 (a), and 3535(c) of this title and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under section 245 of Title 18, and repealed provisions set out as a note under section 1360 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3610, 3614 of this title.

§ 3613. Enforcement by the Attorney General; issues of general public importance; civil action; Federal jurisdiction; complaint; preventive relief.

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this subchapter, or that any group of persons has been denied any of the rights granted by this subchapter and such denial raises an issue of general public importance, he may bring a civil action in any appropriate United States district court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to insure the full enjoyment of the rights granted by this subchapter. (Pub. L. 90–284, title VIII, § 813, Apr. 11, 1968, 82 Stat. 88.)

CODIFICATION

Subsec. (a) designation in section 813 of Pub. L. 90–284 was omitted in the Code, there being no subsequent subsections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3614 of this title.

§ 3614. Expedition of proceedings.

Any court in which a proceeding is instituted under section 3612 or 3613 of this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited. (Pub. L. 90–284, title VIII, § 814, Apr. 11, 1968, 82 Stat. 88.)

§ 3615. Effect on State laws.

Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid. (Pub. L. 90–284, title VIII, § 815, Apr. 11, 1968, 82 Stat. 89.)

§ 3616. Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register.

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register. (Pub. L. 90–284, title VIII, § 816, Apr. 11, 1968, 82 Stat. 89.)

§ 3617. Interference, coercion, or intimidation; enforcement by civil action.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title. This section may be enforced by appropriate civil action. (Pub. L. 90–284, title VIII, § 817, Apr. 11, 1968, 82 Stat. 89.)

§ 3618. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter. (Pub. L. 90–284, title VIII, § 818, Apr. 11, 1968, 82 Stat. 89.)

§ 3619. Separability of provisions.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Pub. L. 90–284, title VIII, § 819, Apr. 11, 1968, 82 Stat. 89.)

SUBCHAPTER II.—PREVENTION OF INTIMIDATION

§ 3631. Violations; bodily injury; death; penalties.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citi-

zen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Pub. L. 90-284, title IX, § 901, Apr. 11, 1968, 82 Stat. 89.)

FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under fair housing provisions of subchapter I of this chapter, see section 101(b) of Pub. L. 90-284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

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GENERAL PROVISIONS

§ 3701. Congressional findings, declarations of policy, and statement of purpose.

Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance. It is the purpose of this chapter to (1) encourage States and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement; and (3) encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals. (Pub. L. 90–351, title 1, § 100, June 19, 1968, 82 Stat. 197.)

SHORT TITLE

Section 1 of Pub. L. 90–351 provided: "That this Act [which enacted this chapter, sections 5315(90), 5316(126), and 7313 of Title 5, sections 921–928 (chapter 44), 2510–2520 (chapter 119), 3103a, 3501, and 3502 of Title 18 and Appendix to such Title 18, amended section 3334(a) of this title, section 3731 of Title 18, and section 605 of Title 47, repealed sections 901–910 of Title 15, enacted provisions set out as notes under sections 7313 of Title 5, 921 and 2510 of Title 18, and 532 of Title 28, and repealed provisions set out as a note preceding section 3001 of Title 18] may be cited as the 'Omnibus Crime Control and Safe Streets Act of 1968'."

SEPARABILITY OF PROVISIONS

Section 1601 of Pub. L. 90–351 provided that: "If the provisions of any part of this Act [see Short Title note under this section] or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

SUBCHAPTER I.—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

§ 3711. Law Enforcement Assistance Administration.

(a) Establishment; general authority of Attorney General over Administration; membership; appointment; political representation.

There is hereby established within the Department of Justice under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this chapter as "Administration") composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. Beginning after the end of the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President.

(b) Executive status and powers of Administrator; functions, powers, and duties of Administration.

The Administrator shall be the executive head of the agency and shall exercise all administrative powers, including the appointment and supervision of Administration personnel. All of the other functions, powers, and duties created and established by this chapter shall be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators. (Pub. L. 90–351, title I, § 101, June 19, 1968, 82 Stat. 198; Pub. L. 91–644, title I, § 2, Jan. 2, 1971, 84 Stat. 1881.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 91–644 incorporated former provisions of subsec. (b) respecting membership and appointment and susbtituted "Beginning after the end of

the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President" for former provision of subsec. (b) that "No more than two members of the Administration shall be of the same political party".

Subsec. (b). Pub. L. 91-644 substituted provisions respecting executive status and powers of Administrator including appointment and supervision of personnel and exercise of other functions, powers, and duties concurrently, for former provisions of subsec. (c) respecting duty of Administration to exercise functions, powers, and duties under this chapter and deleted provisions respecting membership, appointment, and restriction of the Administration to two members of the same political party, now incorporated in subsec. (a), and provision respecting appointment with due regard to fitness, knowledge, and experience to perform the functions, powers, and duties vested in the Administration.

Subsec. (c). Pub. L. 91-644 deleted subsec. (c) provisions respecting duty of Administration to exercise all functions, powers, and duties under this chapter, now incorporated in subsec. (b) of this section.

SHORT TITLE

Section 1 of Pub. L. 91-644 provided: "That this Act [which enacted sections 3747, 3748, 3750 to 3750d, 3791-3793, and 3795 of this title and sections 351 and 1752 of Title 18, amended sections 3711, 3723, 3724, 3731, 3733, 3735, 3736, 3746, 3756, 3763-3765, 3767-3769, and 3781 of this title, sections 5108 and 5313-5316 of Title 5, and sections 924, 3056, and 3731 of Title 18, enacted provisions set out as notes under this section and section 3731 of Title 18 amended provisions set out as a note under section 2510 of Title 18, and repealed provisions set out as a note under section 2510 of Title 18] may be cited as the 'Omnibus Crime Control Act of 1970'."

SUBCHAPTER II.—PLANNING GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3732, 3735, 3768 of this title.

§ 3721. Statement of purpose.

It is the purpose of this subchapter to encourage States and units of general local government to prepare and adopt comprehensive law enforcement plans based on their evaluation of State and local problems of law enforcement. (Pub. L. 90-351, title I, § 201, June 19, 1968, 82 Stat. 198.)

§ 3722. State planning agencies; establishment and operation; time of applications for grants.

The Administration shall make grants to the States for the establishment and operation of State law enforcement planning agencies (hereinafter referred to in this chapter as "State planning agencies") for the preparation, development, and revision of the State plans required under section 3733 of this title. Any State may make application to the Administration for such grants within six months of June 19, 1968. (Pub. L. 90-351, title I, § 202, June 19, 1968, 82 Stat. 198.)

§ 3723. Same; general provisions.

(a) Establishment and maintenance; creation or designation by chief executive; representative capacity.

A grant made under this subchapter to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement agencies, units of general local government, and public agencies maintaining programs to reduce and control crime.

(b) Function, powers, and duties of State planning agencies.

The State planning agency shall—

(1) develop, in accordance with subchapter III of this chapter, a comprehensive statewide plan for the improvement of law enforcement throughout the State;

(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement; and

(3) establish priorities for the improvement in law enforcement throughout the State.

(c) Availability of Federal funds to local government units for formulation and development of State plan; waiver of requirement; funds for major cities and counties.

The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this subchapter for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this subchapter. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this subchapter. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this subchapter. (Pub. L. 90-351, title I, § 203, June 19, 1968, 82 Stat. 199; Pub. L. 91-644, title I, § 3(a)—(c), Jan. 2, 1971, 84 Stat. 1881.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 91-644, § 3(a), inserted provisions respecting public agencies maintaining programs to reduce and control crime, including any regional planning units, and for representation within respective jurisdictions of State planning agency and regional planning units.

Subsec. (c). Pub. L. 91-64, § 3(b), (c), inserted provisions respecting waiver of requirement and allocation of funds for major cities and counties, and substituted "this subsection" for "the preceding sentence" in last sentence preceding "shall be available", respectively.

§ 3724. Amount of grant; limitation.

A Federal grant authorized under this subchapter shall not exceed 90 per centum of the expenses of

the establishment and operation of the State planning agency, including the preparation, development, and revision of the plans required by subchapter III of this chapter. (Pub. L. 90–351, title I, § 204, June 19, 1968, 82 Stat. 199; Pub. L. 91–644, title I, § 3(d), Jan. 2, 1971, 84 Stat. 1881.)

AMENDMENTS

1971—Pub. L. 91–644 struck out provision which prohibited grants made directly to units of general local government as authorized by section 3735 of this title from exceeding 90 per centum of expenses of local planning, including preparation, development, and revision of plans required by subchapter III of this chapter.

§ 3725. Allocation of funds.

Funds appropriated to make grants under this subchapter for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate $100,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations. (Pub. L. 90–351, title I, § 205, June 19, 1968, 82 Stat. 199.)

SUBCHAPTER III.—GRANTS FOR LAW ENFORCEMENT PURPOSES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3723, 3724, 3768 of this title.

§ 3731. General provisions.

(a) Statement of purpose.

It is the purpose of this subchapter to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement.

(b) Categories of programs and projects.

The Administration is authorized to make grants to States having comprehensive State plans approved by it under this subchapter, for—

(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and reduce crime in public and private places.

(2) The recruiting of law enforcement personnel and the training of personnel in law enforcement.

(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.

(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts and temporary courtroom facilities in areas of high crime incidence.

(5) The organization, education, and training of special law enforcement units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

(6) The organization, education, and training of regular law enforcement officers, special law enforcement units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided,* That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.

(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement activities.

(9) The development and operation of community based delinquent prevention and correctional programs, emphasizing halfway houses and other community based rehabilitation centers for initial preconviction of postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

(c) Percentage of grant; limitation; land acquisition prohibition; Federal share for grants to Indian tribes or other aboriginal groups; State appropriation of moneys for State share of non-Federal funding of program costs.

The portion of any Federal grant made under this section for the purposes of paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the

tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects.

(d) Compensation of personnel; limitations.

Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement personnel. The amount of any such grant expanded[1] for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs. (Pub. L. 90–351, title I, § 301, June 19, 1968, 82 Stat. 199; Pub. L. 91–644, title I, § 4(1)–(4), Jan. 2, 1971, 84 Stat. 1882.)

AMENDMENTS

1971—Subsec. (b)(4). Pub. L. 91–644, § 4(1), authorized grants to States with plans for construction of local correctional facilities, centers for treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

Subsec. (b)(8), (9). Pub. L. 91–644, § 4(2), added pars. (8) and (9).

Subsec. (c). Pub. L. 91–644, § 4(3), substituted "portion" for "amount" in three instances, included in prohibition against use of grant for land acquisition any grant made for renting or leasing buildings, increased from 60 to 75 percent the portion of grants for other purposes, and inserted provision respecting grants to Indian tribes and other aboriginal groups, and provision effective July 1, 1972, requiring that at least 40 percent of non-Federal funding of cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual unit of government, for purpose of shared funding of such programs or projects.

Subsec. (d). Pub. L. 91–644, § 4(4), substituted "compensation of police and other regular law enforcement personnel", "compensation of such personnel", and "expanded" for "compensation of personnel", "compensation of personnel", and "expended" and made limitation inapplicable to compensation of personnel engaged in research, development, demonstration, or other short-term programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3734, 3736, 3768, 3781 of this title.

§ 3732. State planning agency, establishment; comprehensive State plan, submission.

Any State desiring to participate in the grant program under this subchapter shall establish a State planning agency as described in subchapter II of this chapter and shall within six months after approval of a planning grant under subchapter II of this chapter submit to the Administration through such State planning agency a comprehensive State plan formulated pursuant to subchapter II of this chapter. (Pub. L. 90–351, title I, § 302, June 19, 1968, 82 Stat. 200.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3750a of this title.

§ 3733. State plans; comprehensive requirements.

The Administration shall make grants under this chapter to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this chapter. No state plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement problems in areas characterized by both high crime incidence and high law enforcement activity. Each such plan shall—

(1) provide for the administration of such grants by the State planning agency;

(2) provide that at least 75 per centum of all Federal funds granted to the State planning agency under this subchapter for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement, except that each such plan shall provide that beginning July 1, 1972, at least the per centum of Federal assistance granted to the State planning agency under this subchapter for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement, and that with respect to such programs or projects, the State will provide in the aggregate not less than one-fourth of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement dealt with in the plan, including descriptions of: (A) general

[1] So in amendment of Pub. L. 91–644, but originally enacted as "expended".

needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement plans and systems;

(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;

(6) provide for research and development;

(7) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

(8) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this subchapter after a reasonable period of Federal assistance;

(9) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government;

(10) set forth policies and procedures designed to assure that Federal funds made available under this chapter will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement;

(11) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this subchapter; and

(12) provide for the submission of such reports in such form and containing such information as the administration may reasonably require.

Any portion of the 75 per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and in conformity with the State plan. (Pub. L. 90–351, title I, § 303, June 19, 1968, 82 Stat. 201; Pub. L. 91–644, title I, § 4(5), (6), Jan. 2, 1971, 84 Stat. 1883.)

AMENDMENTS

1971—Pub. L. 91–644, § 4(5), prohibited approval of State plan as comprehensive unless the Administration finds that the plan provides for allocation of adequate assistance to deal with law enforcement problems in areas characterized by high crime incidence and high law enforcement activity.

Par. (2). Pub. L. 91–644, § 4(6), required State plan, beginning July 1, 1972, to make available Federal assistance to units of general local government for development and implementation of programs and projects for improvement of law enforcement, State share to be not less than one-fourth of non-Federal funding, prescribed basis for determination of per centum for law enforcement funding, and authorized Administration approval of such determination and review of date.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3722, 3737, 3750b of this title.

§ 3734. Applications for financial assistance from local government units; disbursements by State planning agencies.

State planning agencies shall receive applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such an application is in accordance with the purposes stated in section 3731 of this title and is in conformance with any existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to the applicant. (Pub. L. 90–351, title I, § 304, June 19, 1968, 82 Stat. 202.)

§ 3735. Reallocation of funds.

Where a State has failed to have a comprehensive State plan approved under this chapter within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 3736(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 3736(a) of this title. (Pub. L. 90–351, title I, § 305, June 19, 1968, 82 Stat. 202; Pub. L. 91–644, title I, § 4(7), Jan. 2, 1971, 84 Stat. 1883.)

AMENDMENTS

1971—Pub. L. 91–644 substituted provision respecting reallocation of funds where State has failed to have a comprehensive State plan approved within specified period, for prior provisions for grants to local government units where State fails to make an application for a subchapter II grant to establish a State planning agency or fails to file a comprehensive plan upon certification of copy of application for project from such units, evaluation of project, multi-State applications, and amount of grant and limitation thereof.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3736 of this title.

§ 3736. Allocation of funds.

(a) Percentage limitation; land acquisition prohibition; Federal share for grants to Indian tribes or other aboriginal groups; State appropriation of moneys for State share of non-Federal funding of program costs.

The funds appropriated each fiscal year to make grants under this subchapter shall be allocated by the Adminsirtation as follows:

(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 3735 and 3757 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this chapter.

Any grant made from funds available under paragraph (2) of this subsection may be up to 75 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 3731 of this title shall apply to a grant under such paragraph. Effective July 1, 1972, at least 40 per centum of the non-Federal fundings of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects.

(b) Reallocation of funds.

If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this subchapter, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section. (Pub. L. 90–351, title I, § 306, June 19, 1968, 82 Stat. 202; Pub. L. 91–644, § 4(8), Jan. 2, 1971, 84 Stat. 1883.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 91–644 designating existing provisions as subsec. (a), incorporated existing provisions in provisions designated as pars. (1) and (2), included in par. (2) reference to section 3735 of this title and provision for allocation of grants to combination of units of general local government, provided for percentage limitation of grant, prohibited use of grant made for renting, leasing, or constructing buildings or other physical facilities for land acquisition, inserted provision respecting grants to Indian tribes and other aboriginal groups, made limitations on expenditure of portions of grants for compensation of personnel in section 3731(d) of this section applicable to grants under par. (2), and inserted provision, effective July 1, 1972, requiring that at least 40 percent of non-Federal funding of cost of any program or project to be funded by a grant under par. (2) be of money appropriated in the aggregate, by State or individual unit of government, for purpose of shared funding of such programs or project.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3735 of this title.

§ 3737. Priority programs and projects.

(a) In making grants under this subchapter, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.

(b) Notwithstanding the provisions of section 3733 of this title, until August 31, 1968, the Administration is authorized to make grants for programs and projects dealing with the prevention, detection, and control of riots and other violent civil disorders on the basis of applications describing in detail the programs, projects, and costs of the items for which the grants will be used, and the relationship of the programs and projects to the applicant's general program for the improvement of law enforcement. (Pub. L. 90–351, title I, § 307, June 19, 1968, 82 Stat. 202.)

SUBCHAPTER IV.—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3764, 3768 of this title.

§ 3741. Statement of purpose.

It is the purpose of this subchapter to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals. (Pub. L. 90–351, title I, § 401, June 19, 1968, 82 Stat. 203.)

§ 3742. National Institute of Law Enforcement and Criminal Justice.

(a) Establishment; general authority of Administration over Institute; statement of purpose.

There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this subchapter as "Institute"). The Institute shall be under the general authority of the Administration. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement.

(b) Functions, powers, and duties of Institute.

The Institute is authorized—

(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this chapter, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement;

(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement, including, but not limited to, the effectiveness of projects or programs carried out under this chapter;

(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement;

(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this chapter;

(6) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this chapter, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

(7) to establish a research center to carry out the programs described in this section.

(Pub. L. 90–351, title I, § 402, June 19, 1968, 82 Stat. 203.)

§ 3743. Amount of grant, limitation; contributions requirement.

A grant authorized under this subchapter may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration shall require, whenever feasible, as a condition of approval of a grant under this subchapter, that the recipient contribute money, facilities, or services to carry out the purpose for which the grant is sought. (Pub. L. 90–351, title I, § 403, June 19, 1968, 82 Stat. 203.)

§ 3744. F.B.I. law enforcement training programs.

(a) Functions, powers, and duties of Director.

The Director of the Federal Bureau of Investigation is authorized to—

(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement personnel;

(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement personnel. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and such other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

(b) General authority of Attorney General over Director.

In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General. (Pub. L. 90–351, title I, § 404, June 19, 1968, 82 Stat. 204.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3747, 3768 of this title.

§ 3745. Repeal of Law Enforcement Assistance Act of 1965; funds for continuation of projects; immediate duties and discretion of Administration.

Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided,* That—

(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to June 19, 1968, to the extent that such approval provided for continuation.

(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this chapter.

(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

(Pub. L. 90–351, title I, § 405, June 19, 1968, 82 Stat. 204).

REFERENCES IN TEXT

The Law Enforcement Assistance Act of 1965, referred to in the text, was set out as a note preceding section 3001 of Title 18, Crimes and Criminal Procedure, and is now covered by this chapter.

CODIFICATION

Provisions have been set out without a subsec. (a) designation. The original enactment provided for a subsec. (a) but not for any other subsections.

§ 3746. Academic educational assistance.

(a) Authority of Administration; consultation with Commissioner of Education.

Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement.

(b) Loans; cancellation for service.

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for loans, not exceeding $1,800 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas related to law enforcement or suitable for persons employed in law enforcement, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement agency at the rate of 25 per centum of

the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

(c) Tuition, books, and fees; service agreements.

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books, and fees, not exceeding $200 per academic quarter or $300 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement or an area suitable for persons employed in law enforcement. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of the law enforcement agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

(d) Teachers.

Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

(e) Methods of law enforcement education.

The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement education, including—

(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement;

(2) education and training of faculty members;

(3) strengthening the law enforcement aspects of courses leading to an undergraduate, graduate, or professional degree; and

(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

(f) Internship grants.

The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding $50 per week to persons enrolled on a full-time basis in undergraduate of graduate degree programs who are accepted for and serve in full-time internships in law enforcement agencies for not less than eight weeks during any summer recess or for any entire quarter or semeseter on leave from the degree program. (Pub. L. 90–351, title § 406, June 19, 1968, 82 Stat. 204; Pub. L. 91–644, title I, § 5(1), Jan. 2, 1971, 84 Stat. 1884.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 91–644, § 5(1)(A), substituted "in areas related to law enforcement or suitable for persons employed in law enforcement" for "in areas directly related to law enforcement or preparing for employment" in first sentence.

Subsec. (c). Pub. L. 91–644, § 5(1)(B), authorized payments for books.

Subsecs. (d)–(f). Pub. L. 91–644, § 5(1)(C), added subsecs. (d)–(f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3768 of this title.

§ 3747. Administration law enforcement training programs for enforcement personnel.

The Administration is authorized to develop and support regional and national training programs, workshops, and seminars to instruct State and local law enforcement personnel in improved methods of crime prevention and reduction and enforcement of the criminal law. Such training activities shall be designed to supplement and improve, rather than supplant, the training activities of the State and units of general local government, and shall not duplicate the activities of the Federal Bureau of Investigation under section 3744 of this title. (Pub. L. 90–351, title I, § 407, as added Pub. L. 91–644, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885.)

§ 3748. Administration training programs for prosecuting attorneys.

(a) Objectives.

The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

(b) Travel expenses and allowances.

While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703 (b) of Title 5 for persons employed intermittently in the Government service.

(c) Funds for training costs.

The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training. (Pub. L. 90–351, title I, § 407, as added Pub. L. 91–644, title I, § 5(2), Jan. 2, 1971, 84 Stat. 1885.)

SUBCHAPTER IV–A.—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

§ 3750. Statement of purpose.

It is the purpose of this subchapter to encourage States and units of general local government to develop and implement programs and projects for the

construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices. (Pub. L. 90–351, title I, § 451, as added Pub. L. 91–644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1885.)

§ 3750a. Applications for grants; incorporation in comprehensive State plan.

A State desiring to receive a grant under this subchapter for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 3750c of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance wih section 3732 of this title. (Pub. L. 90–351, title I, § 452, as added Pub. L. 91–644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1885.)

§ 3750b. Same; comprehensive requirements.

The Administration is authorized to make a grant under this subchapter to a State planning agency if the application incorporated in the comprehensive State plan—

(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer those funds and that property;

(3) provides satisfactory assurances that the availibility of funds under this subchapter shall not reduce the amount of funds under subchapter III of this chapter which a State would, in the absence of funds under this subchapter, allocate for purposes of this part;

(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

(5) provides for advanced techniques in the design of institutions and facilities;

(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation; and

(9) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9,) (10), (11) and (12) of section 3733 of this title.

(Pub. L. 90–351, title I, § 453, as added Pub. L. 91–644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1886.)

§ 3750c. Basic criteria for applicants and grantees.

The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this subchapter. (Pub. L. 90–351, title I, § 454, as added Pub. L. 91–644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1886.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3750a of this title.

§ 3750d. Allocation of funds.

(a) The funds appropriated each fiscal year to make grants under this subchapter shall be allocated by the Administration as follows:

(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

(2) The remaining fifty per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this subchapter.

Any grant made from funds available under this subchapter may be up to 75 per centum of the cost of the program or project for which such grant is made. No funds awarded under this subchapter may be used for land acquisition.

(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 3757 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section. (Pub. L. 90–351, title I, § 455, as added Pub. L. 91–644, title I, § 6(a), Jan. 2, 1971, 84 Stat. 1886.)

SUBCHAPTER V.—ADMINISTRATIVE PROVISIONS

§ 3751. Rules, regulations, and procedures.

The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this chapter. (Pub. L. 90–351, title I, § 501, June 19, 1968, 82 Stat. 205.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3781 of this title.

§ 3752. Delegation of functions.

The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate. (Pub. L. 90–351, title I, § 502, June 19, 1968, 82 Stat. 205.)

§ 3753. Transfer of functions, powers, and duties of Administration within Department of Justice.

The functions, powers, and duties specified in this chapter to be carried out by the Administration shall

not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress. (Pub. L. 90–351, title I, § 503, June 19, 1968, 82 Stat. 205.)

§ 3754. Place in United States for hearings, subpenas, oaths, examination of witnesses, and reception of evidence.

In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. (Pub. L. 90–351, title I, § 504, June 19, 1968, 82 Stat. 205.)

§ 3755. Officers and employees.

Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this chapter. (Pub. L. 90–351, title I, § 507, June 19, 1968, 82 Stat. 205.)

REFERENCES IN TEXT

The civil service and classification laws, referred to in the text, are classified generally to Title 5, Government Organization and Employees.

§ 3756. Use of services, equipment, personnel, and facilities of other Federal agencies; reimbursement; reciprocal use by such other Federal agencies; availability of State agency cooperation, services, records, and facilities; use of donated or transferred property for testing purposes.

The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this chapter, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals. (Pub. L. 90–351, title I, § 508, June 19, 1968, 82 Stat. 205; Pub. L. 91–644, title I, § 7(3), Jan. 2, 1971, 84 Stat. 1887.)

AMENDMENTS

1971—Pub. L. 91–644 authorized the Administration to receive and utilize, for purposes of this subchapter, property donated or transferred for purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

§ 3757. Withholding of payments for noncompliance with certain requirements; notice and hearing.

Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this chapter, finds that, with respect to any payments made or to be made under this chapter, there is a substantial failure to comply with—

(a) the provisions of this chapter;

(b) regulations promulgated by the Administration under this chapter; or

(c) a plan or application submitted in accordance with the provisions of this chapter;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure. (Pub. L. 90–351, title I, § 509, June 19, 1968, 82 Stat. 206.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3736, 3750d, 3759 of this title.

§ 3758. Administration proceedings.

(a) Finality of action.

In carrying out the functions vested by this chapter in the Administration, the determination, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

(b) Notice and hearing.

If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this chapter, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

(c) Rehearing; additional information.

If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided. (Pub. L. 90–351, title I, § 510, June 19, 1968, 82 Stat. 206.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3759 of this title.

§ 3759. Judicial review.

(a) Petition; record.

If any applicant or grantee is dissatisfied with the Administration's final action with respect to the

approval of its application or plan submitted under this chapter, or any applicant or grantee is dissatisfied with the Administration's final action under section 3757 or section 3758 of this title, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of Title 28.

(b) Conclusiveness of determinations.

The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

(c) Jurisdiction of courts of appeals; review by Supreme Court.

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28. (Pub. L. 90–351, title I, § 511, June 19, 1968, 82 Stat. 206.)

§ 3760. Duration of programs.

Unless otherwise specified in this chapter, the Administration shall carry out the programs provided for in this chapter during the fiscal year ending June 30, 1968, and the five succeeding fiscal years. (Pub. L. 90–351, title I, § 512, June 19, 1968, 82 Stat. 207.)

§ 3761. Coordination of law enforcement assistance and related Federal programs; statistics, etc., from other Federal agencies.

To insure that all Federal assistance to State and local programs under this chapter is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this chapter. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this chapter shall, to the maximum extent practicable, consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts. (Pub. L. 90–351, title I, § 513, June 19, 1968, 82 Stat. 207.)

§ 3762. Reimbursement of other Federal agencies.

The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this chapter. (Pub. L. 90–351, title I, § 514, June 19, 1968, 82 Stat. 207.)

§ 3763. Functions, powers, and duties of Administration; grants or contracts for expenditure of funds.

The Administration is authorized—

(a) to conduct evaluation studies of the programs and activities assisted under this chapter;

(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement in the several States; and

(c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, or institutions in matters relating to law enforcement.

Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate. (Pub. L. 90–351, title I, § 515, June 19, 1968, 82 Stat. 207; Pub. L. 91–644, title I, § 7(4), Jan. 2, 1971, 84 Stat. 1887.)

AMENDMENTS

1971—Pub. L. 91–644 provided that funds appropriated for purposes of this chapter may be expended by grant or contract, as the Administration may determine to be appropriate.

§ 3764. Payments.

(a) Installments; advances or reimbursement; payment of expenses for attending conferences or other assemblages notwithstanding prohibition of section 551 of Title 31.

Payments under this chapter may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the Joint Resolution entitled "Joint Resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings" (section 551 of Title 31).

(b) Maximum sum for any one State.

Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this chapter may be used within any one State except that this limitation shall not apply to grants made pursuant to subchapter IV of this chapter. (Pub. L. 90–351, title I, § 516, June 19, 1968, 82 Stat. 207; Pub. L. 91–644, title I, § 7(5), Jan. 2, 1971, 84 Stat. 1887.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 91–644 authorized payment of transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding prohibition of section 551 of Title 31.

§ 3765. Personnel.

(a) Experts and consultants; employment and compensation.

The Administration may procure the services of experts and consultants in accordance with section

3109 of Title 5, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of Title 5.

(b) Advisory committees; appointment, compensation, and travel expenses.

The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this chapter as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of Title 5 and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such Title 5 for persons in the Government service employed intermittently. (Pub. L. 90–351, title I, § 517, June 19, 1968, 82 Stat. 207; Pub. L. 91–644, title I, § 7(6), Jan. 2, 1971, 84 Stat. 1887.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 91–644 added subsec. (a).

Subsec. (b). Pub. L. 91–644 designated existing provisions as subsec. (b), provided for appointments without regard to civil service laws and for compensation when engaged in advising the Administration, and substituted provision limiting compensation to daily equivalent rate authorized for GS–18 by section 5332 of Title 5 for prior $75 per diem limitation.

§ 3766. Construction unauthorized.

(a) Federal direction, supervision or control of State police force or other law enforcement agency.

Nothing contained in this chapter or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement agency of any State or any political subdivision thereof.

(b) Administration achievement or elimination of racial balance or imbalance through adoption of percentage ratio, quota system or other program.

Notwithstanding any other provision of law nothing contained in this chapter shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this chapter of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this chapter to adopt such a ratio, system, or other program. (Pub. L. 90–351, title I, § 518, June 19, 1968, 82 Stat. 208.)

§ 3767. Reports to President and Congress.

(a) On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this chapter during the preceding fiscal year.

(b) Not later than May 1, 1971, the Administration shall submit to the President and to the Congress recommendations for legislation to assist in the purposes of this chapter with respect to promoting the integrity and accuracy of criminal justice data collection, processing, and dissemination systems funded in whole or in part by the Federal Government, and protecting the constitutional rights of all persons covered or affected by such systems. (Pub. L. 90–351, title I, § 519, June 19, 1968, 82 Stat. 208; Pub. L. 91–644, title I, § 7(7), Jan. 2, 1971, 84 Stat. 1888.)

AMENDMENTS

1971—Pub. L. 91–644 designated existing provisions as subsec. (a), substituted December 31 of each year, for August 31, 1968, and each year thereafter as the reporting date, and added subsec. (b).

§ 3768. Authorization of appropriations.

There is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1971, of which $120,000,000 shall be for the purposes of subchapter IV–A of this chapter; $1,150,000,000 for the fiscal year ending June 30, 1972, and $1,750,000,000 for the fiscal year ending June 30, 1973. Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of subchapter IV–A of this chapter an amount equal to not less than 20 per centum of the amount allocated for the purposes of subchapter III of this chapter. (Pub. L. 90–351, title I, § 520, June 19, 1968, 82 Stat. 208; Pub. L. 90–462, § 1, Aug. 8, 1968, 82 Stat. 638; Pub. L. 91–644, title I, § 7(8), Jan. 2, 1971, 84 Stat. 1888.)

AMENDMENTS

1971—Pub. L. 91–644 authorized appropriation of $650,000,000 for fiscal year ending June 30, 1971 ($120,000,000 thereof for subchapter IV–A purposes), $1,150,000,000 for fiscal year ending June 30, 1972 and $1,750,000,000 for fiscal year ending June 30, 1973, provided for availability of funds until expended, provided for allocation for subchapter IV–A purposes 20 percent of amount allocated for subchapter III purposes (beginning in fiscal year ending June 30, 1972), and deleted obsolete authorization provisions for $100,111,000 for fiscal years ending June 30, 1968 and 1969, $300,000,000 for fiscal year ending June 30, 1970, and for suceeding fiscal years such sums as Congress might authorize, and for fiscal years ending June 30, 1968, and 1969, providing $25,000,000 for subchapter II purposes, $50,000,000 for subchapter III purposes (including $2,500,000 for section 3731(b)(3) purposes, $15,000,000 for section 3731(b)(5) purposes, limited to $1,000,000 per State, $15,000,000 for section 3731(b)(6) purposes, $10,000,000 for correction, probation, and parole purposes, and $25,111,000 for subchapter IV purposes, including $5,111,000 for section 3774 purposes and $10,000,000 for section 3746 purposes.

1968—Subsec. (b)(1)—(3). Pub. L. 90–462 substituted "3731" for "3732" in cls. (1)—(3) where referring to section 3732(b)(3), 3732(b)(5), and 3732(b)(6), respectively.

§ 3769. Recordkeeping requirements.

(a) Scope of information.

Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the

amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access; audits and examinations.

The Administration and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(c) Primary grants or contracts and subgrants or subcontracts.

The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration. (Pub. L. 90–351, title I, § 521, June 19, 1968, 82 Stat. 208; Pub. L. 91–644, title I, § 7(9), Jan. 2, 1971, 84 Stat. 1888.)

REFERENCES IN TEXT

For classifications in the Code of this Act, referred to in subsec. (a), meaning the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, see Short Title note set out under section 3701 of this title.

AMENDMENTS

1971—Subsec. (c). Pub. L. 91–644 added subsec. (c).

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

§ 3781. Definitions.

As used in this chapter—

(a) Law enforcement.

"Law enforcement" means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

(b) Organized crime.

"Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(c) State.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(d) Unit of general local government.

"Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this chapter; provided, however, that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

(e) Combination.

"Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

(f) Construction.

"Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

(g) State organized crime prevention council.

"State organized crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this chapter, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

(h) Metropolitan area.

"Metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(i) Public agency.

"Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

(j) Institution of higher education.

"Institution of higher education" means any such institution as defined by section 1141(a) of Title 20, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(k) Community service officer.

"Community service officer" means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to

be a part, and meeting such other qualifications promulgated in regulations pursuant to section 3751 of this title as the administration may determine to be appropriate to further the purposes of section 3731(b)(7) of this title and this Act.

(*l*) Correctional institution or facility.

The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses. (Pub. L. 90–351, title I, § 601, June 19, 1968, 82 Stat. 209; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —; Pub. L. 91–644, title I, §§ 6(b), 9, Jan. 2, 1971, 84 Stat. 1887, 1888.)

REFERENCES IN TEXT

For classifications in the Code of this Act, referred to in subsec. (k), meaning the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, see Short Title note set out under section 3701 of this title.

AMENDMENTS

1971—Subsec. (a). Pub. L. 91–644, § 9(1), defined "law enforcement" to include any activity pertaining to crime control and enumerated without limiting to the list activities relating to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to prevention, control, or reduction of juvenile delinquency or narcotic addiction.

Subsec. (d). Pub. L. 91–644, § 9(2), defined "unit of general local government" to include, for purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, authorized use of funds appropriated by Congress for activities of such agencies to provide non-Federal share of cost of programs or projects funded under this chapter, and required that such assistance eligibility of any agency of the United States Government shall be for sole purpose of facilitating transfer of criminal jurisdiction from United States District Court for District of Columbia to Superior Court of District of Columbia pursuant to District of Columbia Court Reform and Criminal Procedure Act of 1970.

Subsec. (*l*). Pub. L. 91–644, § 6(b) added subsec. (*l*).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SUBCHAPTER VII.—CRIMINAL PENALTIES

3791. Embezzlement, theft and fraud.

Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this chapter, whether received directly or indirectly from the Administration, shall be fined not more than $10,000 or imprisoned for not more than five years, or both. (Pub. L. 90–351, title I, § 651, as added Pub. L. 91–644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889.)

§ 3792. Fraudulent and false statements or entries.

Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this chapter or in any records required to be maintained pursuant to this chapter shall be subject to prosecution under the provisions of section 371 of Title 18. (Pub. L. 91–351, title I, § 653, as added Pub. L. 91–644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889.)

§ 3793. Conspiracies.

Any law enforcement program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this chapter, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of Title 18. (Pub. L. 91–351, title I, § 653, as added Pub. L. 91–644, title I, § 10, Jan. 2, 1971, 84 Stat. 1889.)

SUBCHAPTER VIII.—REPORT ON FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

§ 3795. Annual report to President and Congress; contents; Federal assistance programs relating to crime prevention and control covered.

The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each fiscal year shall submit to the President and to the Congress an Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act 1968, the Gun Control Act 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance). (Pub. L. 90–351, title I, § 670, as added Pub. L. 91–644, title I, § 12, Jan. 2, 1971, 84 Stat. 1889.)

REFERENCE IN TEXT

The Juvenile Delinquency Prevention and Control Act of 1968, referred to in the text, is classified to chapter 47 (section 3801 et seq.) of this title.

The Narcotics Addict Rehabilitation Act of 1968, referred to in the text, probably means the Alcoholic and Narcotic Addict Rehabilitation Amendments of 1968, which is classified to section 2688e et seq. of this title.

The Gun Control Act of 1968, referred to in the text, is Pub. L. 90–618, Oct. 22, 1968, 82 Stat. 1213, for classification of which in the Code, see Short Title note under section 921 of Title 18, Crimes and Criminal Procedure.

The Criminal Justice Act of 1964, referred to in the text, is classified to section 3006A of Title 18, Crimes and Criminal Procedure.

Title XI of the Organized Crime Control Act of 1970, referred to in the text, is classified to chapter 40 (section 841 et seq.) of Title 18, Crimes and Criminal Procedure.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in the text, is classified to section 3731 et seq. of this title.

Chapter 47.—JUVENILE DELINQUENCY PREVENTION AND CONTROL

Sec.
3801. Congressional findings and declaration of purpose.

SUBCHAPTER I.—PLANNING AND PREVENTIVE AND REHABILITATION SERVICES

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§ 3801. Congressional findings and declaration of purpose.

The Congress finds that delinquency among youths constitutes a national problem which can be met by assisting and coordinating the efforts of public and private agencies engaged in combating the problem, and by increasing the number and extent of the services available for preventing and combating juvenile delinquency. It is, therefore, the purpose of this chapter to help State and local communities strengthen their juvenile justice and juvenile aid systems, including courts, correctional systems, police agencies, and law enforcement and other agencies which deal with juveniles, and to assist communities in providing diagnosis, treatment, rehabilitative, and preventive services to youths who are delinquent or in danger of becoming delinquent, to encourage the development of community-based rehabilitation and prevention programs to provide assistance in the training of personnel employed or preparing for employment in occupations involving the provision of such services, to provide support for comprehensive planning, development of improved techniques, and information services in the field of juvenile delinquency, and to provide technical assistance in such field. (Pub. L. 90–445, § 2, July 31, 1968, 82 Stat. 462.)

SHORT TITLE

Section 1 of Pub. L. 90–445 provided: "That this Act [enacting this chapter] may be cited as the 'Juvenile Delinquency Prevention and Control Act of 1968'."

SUBCHAPTER I.—PLANNING AND PREVENTIVE AND REHABILITATIVE SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3883 of this title.

PART A.—STATE AND LOCAL PLANNING AND STATE ASSISTANCE TO LOCALITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 3844, 3890 of this title.

§ 3811. State and local planning.

(a) In order to encourage States and localities to prepare and adopt comprehensive plans covering their respective jurisdictions, based on a thorough evaluation of problems of juvenile delinquency and youths in danger of becoming delinquent in the State, the Secretary is authorized to make grants to any State or local public agency to assist in preparing or revising such a plan. No such grant may exceed 90 per centum of the cost of the planning with respect to which such grant is made.

(b) The Secretary may impose as a condition to any grants under this subchapter within any State or locality that such planning be undertaken and that, where he deems it appropriate, a comprehensive plan or plans be prepared within a reasonable period. (Pub. L. 90–445, title I, § 101, July 31, 1968, 82 Stat. 463.)

§ 3812. Grants for planning projects or programs.

The Secretary is authorized to make grants to any State, county, municipal, or other public agency or nonprofit private agency or organization to assist it in meeting the cost of planning any project or program for which a grant may be made under the other provisions of this subchapter. No such grant may exceed 90 per centum of the cost of the planning with respect to which such grant is made. (Pub. L. 90–445, title I, § 102, July 31, 1968, 82 Stat. 463.)

PART B.—REHABILITATIVE SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 3841—3843, 3845 of this title.

§ 3821. Congressional statement of purpose.

The purpose of this part is to assist courts, correctional institutions, law enforcement agencies, and other agencies having responsibilities with respect

to delinquent youths and youths in danger of becoming delinquent, including youths who are on parole or probation, to develop, improve, and make full use of State and community rehabilitation services for the diagnosis, treatment, and rehabilitation of such youths; to assist and encourage States to devote resources under other programs, in the fields of general and vocational education, job training, prevention and detection of crime, health, and welfare, to support programs for the diagnosis, treatment, and rehabilitation of delinquent youths and youths in danger of becoming delinquent, including support through the provision of assistance to establish linkage between the planning, conduct, and delivery of services under such other programs and programs under this chapter for delinquent youths and youths in danger of becoming delinquent; and to encourage the development in communities of new designs and new methods of care and treatment, including the operation of full-time or part-time community-based residential facilities for such youths requiring residential care, diagnosis, treatment, and rehabilitation. (Pub. L. 90–445, title I, § 111, July 31, 1968, 82 Stat. 463.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3823 of this title.

§ 3822. Authorization of grants.

The Secretary is authorized to make grants to meet not to exceed 60 per centum of the cost of projects or programs designed to carry out the purposes of this part. (Pub. L. 90–445, title I, § 112, July 31, 1968, 82 Stat. 464.)

§ 3823. Applications; required assurances and information.

(a) Grants under this part may be made only upon application, to a State agency or, in the case of direct grants under section 3842 of this title, to the Secretary, by a State, county, municipality, or other public agency or combination thereof, which contains or is accompanied by satisfactory assurances that—

(1) such applicant agency will provide to the extent feasible for coordinating, on a continuing basis, its operations with the operations of public agencies and private nonprofit organizations furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

(2) such applicant agency will make reasonable efforts to secure or provide any of such services which are necessary for diagnosing, treating, and rehabilitating youths referred to in section 3821 of this title and which are not otherwise being provided in the community, or if being provided are not adequate to meet its needs;

(3) maximum use will be made under the program or project of other Federal, State, or local resources available for provision of such services;

(4) financial resources will, in the case of grants for construction, be available for the non-Federal share of such construction and for continued operation of the facility constructed; and

(5) public and private agencies and organizations (including courts, law enforcement and other agencies involved in the youth correction process) providing the services referred to in paragraph (1) will be consulted in the formulation by the applicant of the project or program, taking into account the services and expertise of such agencies and organizations, and with a view to adapting such services to the better fulfillment of the purposes of this part.

(b) Such application shall contain such information as may be necessary to carry out the purpose of this chapter, including—

(1) a description of the services for youths described in section 3821 of this title which are available in the State or community;

(2) a statement of the method or methods of linking the agencies and organizations, public and private, providing these and other services; and

(3) a showing that the project or program is consistent with any comprehensive plan developed under any other Act which is related to the purpose of this chapter.

(Pub. L. 90–445, title I, § 113, July 31, 1968, 82 Stat. 464.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3841 of this title.

PART C.—PREVENTIVE SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 3841—3843, 3845 of this title.

§ 3831. Congressional statement of purpose.

The purpose of this part is to promote the use of community-based services for the prevention of delinquency of youths; and to assist States and communities to establish special preventive services, including educational delinquency prevention programs in schools, for youths in danger of becoming delinquent, including youths who are on parole or probation. (Pub. L. 90–445, title I, § 121, July 31, 1968, 82 Stat. 465.)

§ 3832. Authorization of grants.

The Secretary is authorized to make grants to meet not to exceed 75 per centum of the cost of projects or programs designed to carry out the purposes of this part. (Pub. L. 90–445, title I, § 122, July 31, 1968, 82 Stat. 465.)

§ 3833. Applications; required assurances and information.

(a) Grants under this part may be made only upon application, to a State agency or, in the case of direct grants under section 3842 of this title, to the Secretary, by a public agency or nonprofit private agency or organization, which contains or is accompanied by satisfactory assurances that—

(1) steps have been or will be taken toward provision, within a reasonable period of time, of a program of services in the area served which are necessary for the prevention of delinquency of youths, including diagnosis, treatment, and rehabilitation of youths in danger of becoming delinquent;

(2) such applicant agency or organization will make special efforts to assure that the services provided by the program or project will be available for youths with serious behavioral problems;

(3) such applicant agency or organization will provide to the extent feasible for coordinating, on a continuing basis, its operations with the operations of public agencies and private nonprofit organizations furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

(4) such applicant agency or organization will make reasonable efforts to secure or provide any of such services which are necessary for diagnosing, treating, and rehabilitating youths referred to in section 3831 of this title and which are not otherwise being provided in the community, or if being provided are not adequate to meet its needs;

(5) maximum use will be made under the program or project of other Federal, State, or local resources available for provision of such services; and

(6) public and private agencies and organizations (including courts, law enforcement and other agencies involved in the youth correction process) providing the services referred to in paragraph (3) will be consulted in the formulation by the applicant of the project or program, taking into account the services and expertise of such agencies and organizations, and with a view to adapting such services to the better fulfillment of the purposes of this part.

(b) Such application shall contain such information as may be necessary to carry out the purpose of this chapter, including—

(1) a description of the services for youths described in section 3831 of this title which are available in the State or community;

(2) a statement of the method or methods of linking the agencies and organizations, public and private, providing these and other services; and

(3) a showing that the project or program is consistent with any comprehensive plan developed under any other Act which is related to the purpose of this chapter.

(Pub L. 90–445, title I, § 123, July 31, 1968, 82 Stat. 465.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3841 of this title.

PART D.—GENERAL PROVISIONS

§ 3841. State plan.

(a) Comprehensiveness and detail of plan.

Any State which desires to receive a grant under part B or C of this subchapter in order to make program or project grants within such State shall, through a single State agency designated for the purposes of this subchapter, submit to the Secretary a comprehensive juvenile delinquency plan in such detail as the Secretary deems necessary.

(b) Specific requirements of plan.

The Secretary shall approve a State plan or modification thereof for any fiscal year for purposes of this section if he determines that the plan for that fiscal year—

(1) provides that the grant to the State will be used solely (A) for projects and programs which are submitted to the State agency by a community, municipal, or other local public agency or local nonprofit private agency or organization, or combination thereof, which meet the requirements of section 3823 or section 3833 of this title, and which are approved by such State agency, and (B) for paying up to 75 per centum of the cost of administering the plan approved under this section;

(2) (A) sets forth, on the basis of an analysis and survey of the needs in the State for assistance under part B or C, a method of distribution of funds under the plan, including establishment of priorities for locations and types of projects and programs, which gives emphasis to community based alternatives to programs of institutionalization and which conforms to criteria of the Secretary, and (B) provides for distribution of such funds, insofar as financial resources make possible, in accordance with such method;

(3) provides for an appropriate balance of rehabilitation and preventive projects and programs;

(4) provides for (A) effective coordination of plans and programs developed and conducted by the State in fields related to juvenile delinquency, including programs under the Elementary and Secondary Education Act of 1965, the Social Security Act, the Manpower Development and Training Act of 1962, and programs for the prevention and detection of crime, with plans, projects, and programs developed and conducted by the State under this subchapter, and (B) appropriate application of resources under such other plans and programs to support and reinforce plans, projects, and programs under this subchapter;

(5) provides for the effective participation of persons representative of local and areawide public and private groups and organizations familiar with the field of juvenile delinquency and with associated fields in the development and implementation of the State plan;

(6) demonstrates the capability of the State agency in the areas of planning, project and program development, technical assistance, and evaluation, and sets forth the administrative organization and procedures in such detail as the Secretary may prescribe by regulation;

(7) provides for the maximum use of other Federal, State, and local resources, including resources available through the programs referred to in paragraph (4), in carrying out the State plan and projects and programs under it;

(8) sets forth policies and procedures which give assurance that the Federal grant for any fiscal year will be used to supplement and, to the extent practical, increase the fiscal effort (determined in accordance with criteria prescribed by the Secretary by regulation) that would, in the absence of such Federal grant, be made by the State, and subdivisions thereof, in the field of juvenile delinquency;

(9) provides for adoption of effective procedures (A) for the evaluation at least annually of the effectiveness of the programs and projects supported under the State plan, and (B) for dissemination of information secured thereby and other useful information to local public or nonprofit private agencies and organizations in the

State operating in the field of juvenile delinquency or a related field;

(10) provides for adoption of procedures to assure that funds paid to local public or nonprofit private agencies and organizations with respect to projects and programs under the plan will be used in accordance with applications therefor approved under the plan;

(11) provides for making an annual report and such other reports, in such form and containing such information and evaluations, as the Secretary may reasonably require;

(12) provides that final action by the State agency denying (in whole or in part), or withholding funds with respect to, any application (or amendment thereof) made to it for a grant under part B or C shall not be taken without first affording the applicant reasonable notice and opportunity for a hearing;

(13) provides, in the case of an application for a program or a project which is in the nature of an amendment to the State plan or a clear departure from the purview of the State plan, that final approval by the State agency of such application shall not be given unless such application has been submitted to the Secretary together with a brief statement describing the proposed program or project, and the Secretary has not, within thirty days after such submission, disapproved such application; and

(14) provides assurance that the State will furnish at least one-half of the non-Federal share of funds required to meet the cost of programs and projects aided under the State plan.

(c) Partial approval.

Depending upon the availability of funds, and the other applications under part B or C, the Secretary may approve all or part of the assistance requested by a State agency pursuant to an approved State plan, but all assistance requested by such agency, pursuant to an approved State plan, may be disapproved only if he determines that the provision of such assistance would so disperse available funds that the effectiveness of other projects or programs under part B or C which would more effectively carry out the purposes of part B or C, would be impaired.

(d) Substantial compliance.

The Secretary may, if he finds that a State plan for a fiscal year is in substantial (but not complete) compliance with the requirements set forth in subsection (b) of this section, approve that part of the plan which is in compliance with such requirements and make available to that State only those funds which he determines to be necessary to carry out that part of the plan so approved.

(e) Hearing; halt in payments for noncompliance with requirements.

(1) The Secretary shall not finally disapprove any plan submitted under subsection (a) of this section, or any modification thereof, without first affording the State agency submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State agency, finds that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under this section, the Secretary shall notify the agency that further payments will not be made to the State under parts B and C (or, in his discretion, that the State agency shall not make further payments thereunder to specified public agencies or nonprofit private agencies or organizations affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under such parts or payments by the State agency under such parts shall be limited to public agencies or nonprofit private agencies and organizations not affected by the failure, as the case may be. (Pub. L. 90–445, title I, § 131, July 31, 1968, 82 Stat. 466.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified principally to sections 241a et seq. and 821 et seq. of Title 20, Education. See Short Title note under section 821 of Title 20.

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified to section 301 et seq. of this title.

The Manpower Development and Training Act of 1962, referred to in text, is Pub. L. 87–415, Mar. 15, 1962, 76 Stat. 23, as amended, which is classified to section 2571 et seq. of this title.

§ 3842. Direct grants.

Until a State has submitted a State comprehensive juvenile delinquency plan under this subchapter, and the Secretary has approved such plan, or upon failure of the State to carry out such plan according to the terms and conditions specified in such plan as approved, the Secretary may make grants directly to public agencies or nonprofit private agencies and organizations in accordance with the provisions of parts B and C of this subchapter. No grant under this section shall be for an amount in excess of 60 per centum in the case of part B or 75 per centum in the case of part C of the cost of the project or program with respect to which it is made. (Pub. L. 90–445, title I, § 132, July 31, 1968, 82 Stat. 468.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3823, 3833, 3844, 3845, 3890 of this title.

§ 3843. Use of funds; labor standards.

Funds paid to any agency or organization (whether directly or through a State agency) under part B or C of this subchapter may be used for—

(1) meeting the cost of securing or providing services designed to carry out the purposes of such part, but only to the extent and for the period reasonably necessary for the community to provide such services; and

(2) in the case of part B, meeting not to exceed 50 per centum of the cost of construction of community-based, unusual, and special purpose or innovative types of facilities which, in the judgment of the Secretary, are necessary for carrying out the purposes of part B, including community-based, unusual, and special purpose or innovative (A) combination detention and diagnostic facilities, (B) halfway houses for youths who because of special behavioral problems have a high risk

of becoming delinquent or who have been determined to be delinquent and are not yet ready for full return to society; (C) small, special-purpose, residential, community-based facilities for diagnosis, treatment, and rehabilitation of youths; (D) training schools for the rehabilitation and education of youths who are in custody of any public agency charged with the care of delinquent youths; but, in developing plans for such facilities, due consideration shall be given to excellence of architecture and design: *Provided, however,* That not to exceed 25 per centum of the funds appropriated for any fiscal year under this chapter may be used to meet such costs of construction.

It shall be a condition of any grant under part B which is wholly or partially for construction that all laborers and mechanics employed by contractors or subcontractors on such construction shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have with respect to these labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 90–445, title I, § 133, July 31, 1968, 82 Stat. 468.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3844. Notification.

The Secretary shall not approve an application for a grant under part A or section 3842 of this title until a copy of the application has been submitted—

(1) to the Governor of the State, or an officer designated by him or by State law, and a reasonable opportunity has been afforded the Governor or such officer to prepare and submit to the Secretary his evaluation of the planning, program, or project, which shall include comments on the relationship of the application to other applications then pending and to existing or proposed plans in the State for the development of new or additional programs for the diagnosis, treatment, or rehabilitation or preventive services for youths who are delinquent or in danger of becoming delinquent; and

(2) to the governing bodies of the political units principally affected, and a reasonable opportunity afforded such governing bodies, acting through such officers as they may designate, to prepare and submit to the Secretary an evaluation of the planning, program, or project.

(Pub. L. 90–445, title I, § 134, July 31, 1968, 82 Stat. 469.)

§ 3845. Considerations for approval of applications.

In determining whether or not to approve applications for grants under part B or C of this subchapter, the State agency or, in the case of grants under section 3842 of this title, the Secretary shall consider, among other relevant factors in the State or community of the applicant—

(1) the relative costs and effectiveness of the project or program in effectuating the purposes of such part;

(2) the incidence of and rate of increase in youth offenses and juvenile delinquency;

(3) school dropout rates;

(4) the adequacy of existing facilities and services for carrying out the purposes of such part;

(5) the extent of comprehensive planning in the community for carrying out the purposes of such part;

(6) youth unemployment rates;

(7) the extent to which proposed programs or projects incorporate new or innovative techniques within the State or community to carry out the purposes of such part; and

(8) the extent to which the proposed programs or projects incorporate programs for the parents of youths who are delinquent or in danger of becoming delinquent, as well as programs for other adults who offer guidance or supervision to such youths.

(Pub. L. 90–445, title I, § 135, July 31, 1968, 82 Stat. 469.)

SUBCHAPTER II.—TRAINING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3888 of this title.

§ 3861. Project grants and contracts.

The Secretary is authorized, with the concurrence of the Secretary of Labor, to make grants or contracts for projects for the training of personnel employed in or preparing for employment in fields related to the diagnosis, treatment, or rehabilitation of youths who are delinquent or in danger of becoming delinquent, or for the counseling or instruction of parents in the improving or[1] parental instruction and supervision of youths who are delinquent or in danger of becoming delinquent. Such projects shall include special programs which provide youths and adults with training for career opportunities, including new types of careers, in such fields. Such projects may include, among other things, development of courses of study and of interrelated curricula in schools, colleges, and universities, establishment of short-term institutes for training at such schools, colleges, and universities, inservice training, and traineeships with such stipends, including allowances for travel and subsistence expenses, as the Secretary may determine to be necessary. (Pub. L. 90–445, title II, § 201, July 31, 1968, 82 Stat. 470.)

§ 3862. Recipients and conditions.

Such grants may be made to and such contracts may be made with any Federal, State, or local public or nonprofit private agency or organization; and to the extent he deems it appropriate, the Secretary shall require the recipient of any such grant or contract to contribute money, facilities, or services for carrying out the projects for which the grant or contract is made. (Pub. L. 90–445, title II, § 202, July 31, 1968, 82 Stat. 470.)

[1] So in original. Should probably be "of".

SUBCHAPTER III.—IMPROVED TECHNIQUES AND PRACTICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 3888 of this title.

§ 3871. New treatment and services.

(a) Techniques and practices.

The Secretary is authorized to develop improved techniques and practices which, in his judgment, hold promise of making a substantial contribution toward prevention of delinquency and treatment of youths who are delinquent or in danger of becoming delinquent or toward improvement in the rehabilitative services for delinquent youths, including techniques and practices for the training of personnel.

(b) Grants.

The Secretary may also make grants for such purposes to any State, local, or other public agency or nonprofit private agency or organization; and, to the extent he deems it appropriate, the Secretary shall require the recipient of any such grant to contribute money, facilities, or services for carrying out the project for which such grant was made.

(c) Contracts.

The Secretary is further authorized to enter into contracts for any such purposes with public or private agencies and organizations and with individuals.

(d) Limitation on use of appropriated funds.

Not more than 10 per centum of the funds appropriated for any fiscal year under this chapter, or $2,000,000, whichever is the lesser, may be used to carry out this section. (Pub. L. 90–445, title III, § 301, July 31, 1968, 82 Stat. 470.)

§ 3872. Technical assistance.

The Secretary is authorized to cooperate with and, either directly or through grants to or contracts with any public agency or nonprofit private agency or organization, render technical assistance to State, local, or other public or private agencies or organizations in matters relating to prevention of delinquency or to rehabilitative services for delinquent youths and youths in danger of becoming delinquent, and to provide short-term training and instruction of a technical nature with respect to such matters. (Pub. L. 90–445, title III, § 302, July 31, 1968, 82 Stat. 471.)

§ 3873. State assistance to local units.

The Secretary is authorized to make grants to any State agency which is able and willing to provide technical assistance to local public agencies and nonprofit private agencies and organizations engaged in or preparing to engage in activities for which aid may be provided under this chapter. No such grant may exceed 90 per centum of the cost of the activities of the State agency with respect to which such grant is made. (Pub. L. 90–445, title III, § 303, July 31, 1968, 82 Stat. 471.)

§ 3874. Information services.

The Secretary is directed to collect, evaluate, publish, and disseminate information and materials relating to research and programs and projects conducted under this chapter, and other matters relating to prevention or treatment of delinquency or provision of rehabilitative services for delinquent youths and youths who are in danger of becoming delinquent, such information and materials to be for the general public and for agencies, organizations, and personnel engaged in programs concerning youths who are delinquent or in danger of becoming delinquent. (Pub. L. 90–445, title III, § 304, July 31, 1968, 82 Stat. 471.)

SUBCHAPTER IV.—ADMINISTRATION

§ 3881. Payment procedure.

Payments of any grant or under any contract under this chapter may be made (after necessary adjustment on account of previously made overpayments or underpayments) in installments, and in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made on such conditions as he finds necessary to carry out the purposes for which the grant or contract is made. (Pub. L. 90–445, title IV, § 401, July 31, 1968, 82 Stat. 471.)

§ 3882. Authorization of appropriations.

There are authorized to be appropriated for grants and contracts under this chapter, to the Department of Health, Education, and Welfare, $25,000,000 for the fiscal year ending June 30, 1969, $50,000,000 for the fiscal year ending June 30, 1970, and $75,000,000 for the fiscal year ending June 30, 1971. (Pub. L. 90–445, title IV, § 402, July 31, 1968, 82 Stat. 471.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3884 of this title.

§ 3883. Amounts available to each State.

(a) The total of the grants made under subchapter I of this chapter for any fiscal year with respect to activities in any one State may not exceed 15 per centum of the total of the funds available for such grants under such subchapter for such fiscal year.

(b) Of the funds available for grants under subchapter I of this chapter for any fiscal year—

(1) $25,000 each shall be reserved for the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(2) $100,000 shall be reserved for each other State;

except that, if the Secretary determines, on the basis of the information available to him on the last day of the ninth month of any fiscal year, that any portion of such $25,000 or $100,000 for any State will not be required for such grants under subchapter I of this chapter for such year, such portion shall be available for grants under such subchapter for such year with respect to activities in any other State (in the case of which such a determination has not been made). (Pub. L. 90–445, title IV, § 403, July 31, 1968, 82 Stat. 471.)

§ 3884. Evaluation.

(a) The Secretary shall provide for the continuing evaluation of the programs, projects, and other activities under this chapter, including their effectiveness in achieving stated goals and their relationship to and impact on related Federal, State, and

local activities. This evaluation shall include comparisons with proper control groups composed of persons who have not participated in programs under this chapter. The results of such evaluations shall be included in the report required by section 3888 of this title.

(b) In addition to funds otherwise available for evaluation, such portion of any appropriation under section 3882 of this title as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the activities for which such appropriation is made. (Pub. L. 90–445, title IV, § 404, July 31, 1968, 82 Stat. 472.)

§ 3885. Judicial review.

In the case of action taken by the Secretary terminating or refusing to continue financial assistance to a grantee, such grantee may obtain judicial review of such action in accordance with chapter 7 of Title 5. (Pub. L. 90–445, title IV, § 405, July 31, 1968, 82 Stat. 472.)

§ 3886. Joint funding.

Pursuant to regulations prescribed by the President, where funds are advanced for a single project by more than one Federal agency to an agency or organization assisted under this chapter, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. (Pub. L. 90–445, title IV, § 406, July 31, 1968, 82 Stat. 472.)

ADMINISTRATION OF JOINTLY FUNDED PROJECTS

Director of the Office of Management and Budget, formerly Director of the Bureau of the Budget, authorized by the President to administer jointly funded projects under this section, see Ex. Ord. No. 11466, Apr. 18, 1969, 34 F.R. 6727, set out as a note under section 2962 of this title.

§ 3887. Coordination.

To avoid duplication of efforts, it shall be the responsibility of the Secretary to consult and coordinate with the Attorney General and such other Federal officers as are charged with responsibilities in the area of combating juvenile delinquency or crime in general. (Pub. L. 90–445, title IV, § 407, July 31, 1968, 82 Stat. 472.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3888 of this title.

§ 3888. Annual report to Congress.

Not later than one hundred and twenty days after the close of each fiscal year, the Secretary, with the appropriate assistance and concurrence of the heads of other Federal agencies who are consulted and whose activities are coordinated under section 3887 of this title, shall prepare and submit to the President for transmittal to the Congress a full and complete report on all Federal activities in the fields of juvenile delinquency, youth development, and related fields. Such report shall include, but not be limited to—

(1) planning, program, and project activities conducted under this chapter;

(2) the nature and results of model programs and technical assistance conducted under subchapter III of this chapter;

(3) the number and types of training projects, number of persons trained and in training, and job placement and other follow-up information on trainees and former trainees assisted under subchapter II of this chapter; and

(4) steps taken and mechanisms and methods used to coordinate and avoid duplication of Federal activities in the fields of juvenile delinquency, youth development, and related fields and the effectiveness of such steps, mechanisms, and methods.

(Pub. L. 90–445, title IV, § 408, July 31, 1968, 82 Stat. 472.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3884 of this title.

§ 3889. Advisory committees.

(a) The Secretary is authorized to appoint an advisory committee to advise him with respect to matters of general policy involved in the administration of this chapter, and particularly with respect to the coordination of activities under this chapter and related activities under other Federal, State, or local laws and on such other matters relating to this chapter as the Secretary may request.

(b) (1) The Secretary is also authorized to appoint such other technical or advisory committees to advise him in connection with activities under this chapter as he deems necessary.

(2) Members of any committee appointed under this section who are not otherwise in the regular full-time employ of the United States, while attending meetings of their respective committees, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per diem (or, if higher, the rate specified at the time of such service for grade GS–18 in Title 5, section 5332), including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (section 5703 of Title 5) for persons in the Government service employed intermittently. (Pub. L. 90–445, title IV, § 409, July 31, 1968, 82 Stat. 473.)

§ 3890. Definitions.

For purposes of this chapter—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) The term "State agency" means the State agency designated in a State's comprehensive juvenile delinquency plan.

(3) The term "public agency" means a duly elected political body or a subdivision thereof and shall not be construed to include the Office of Economic Opportunity. Such term includes an Indian tribe. In the case of a grant under part A of subchapter I of this chapter or section 3842 of this title, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any

planning, project, or program, he may increase the Federal share of the cost thereof payable under this chapter to the extent necessary, notwithstanding the maximum otherwise imposed by this chapter on the portion of such cost which may be so payable.

(4) The term "nonprofit private agency or organization" means any accredited institution of higher education, and any other agency, organization, or institution which is owned and operated by one or more nonprofit corporations or organizations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, but only if such agency, organization, or institution was in existence at least two years before the date of an application under this chapter. Such term shall not be construed to include the Office of Economic Opportunity. Participation by the Office of Economic Opportunity is expressly prohibited in administering this chapter.

(5) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(Pub. L. 90–445, title IV, § 410, July 31, 1968, 82 Stat. 473.)

Chapter 48.—GUARANTEES FOR FINANCING NEW COMMUNITY LAND DEVELOPMENT

Sec.
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§ 3901. Congressional declaration of purpose.

It is the purpose of this chapter, by facilitating the enlistment of private capital in new community development, to encourage the development of new communities that—

(1) contribute to the general betterment of living conditions through the improved quality of community development made possible by a consistent design for the provision of homes, commercial and industrial facilities, public and community facilities, and open spaces;

(2) make substantial contributions to the sound and economic growth of the areas in which they are located;

(3) provide needed additions to the general housing supply;

(4) provide opportunities for innovation in housing and community development technology and in land use planning;

(5) enlarge housing and employment opportunities by increasing the range of housing choice and providing new investment opportunities for industry and commerce;

(6) encourage the maintenance and growth of a diversified local homebuilding industry; and

(7) include, to the greatest extent feasible, the employment of new and improved technology, techniques, materials, and methods in housing construction, rehabilitation, and maintenance under programs administered by the Department of Housing and Urban Development with a view to reducing the cost of such construction, rehabilitation, and maintenance, and stimulating the increased and sustained production of housing under such programs.

(Pub. L. 90–448, title IV, § 402, Aug. 1, 1968, 82 Stat. 513.)

SHORT TITLE

Section 401 of Pub. L. 90–448 provided that: "This title [enacting this chapter and amending section 1492(b)(4) of this title and sections 371 and 1464(c) of Title 12] may be referred to as the 'New Communities Act of 1968'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3902. Guarantee authority.

To carry out the purposes of this chapter the Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by new community developers to help finance new community development projects. The Secretary may make such guarantees and enter into such commitments, subject to the limitations contained in sections 3903 and 3904 of this title, upon such terms and conditions as he may prescribe, taking into account (1) the large initial capital investment required to finance sound new communities, (2) the extended period before initial returns on this type of investment can be expected, (3) the irregular pattern of cash returns characteristic of such investment, and (4) the financial and security interests of the United States in connection with guarantees made under this chapter. (Pub. L. 90–448, title IV, § 403, Aug. 1, 1968, 82 Stat. 514.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1492, 3909, 3911 of this title.

§ 3903. Eligible new community development.

No guarantee or commitment to guarantee may be made under this chapter unless the Secretary has determined that—

(1) the proposed new community (A) will be economically feasible in terms of economic base or potential for growth, and (B) will contribute to the orderly growth and development of the area of which it is a part;

(2) there is a practicable plan (including appropriate time schedules) for financing the land acquisition and land development costs of the proposed new community and for improving and marketing the land which, giving due consideration to the public purposes of this chapter and the

special problems involved in financing new communities, represents an acceptable financial risk to the United States;

(3) there is a sound internal development plan for the new community which (A) has received all governmental approvals required by State or local law or by the Secretary; and (B) is acceptable to the Secretary as providing reasonable assurance that the development will contribute to good living conditions in the area being developed, will be characterized by sound land use patterns, will include a proper balance of housing for families of low and moderate income, and will include or be served by such shopping, school, recreational, transportation, and other facilities as the Secretary deems satisfactory; and

(4) the internal development plan is consistent with a comprehensive plan which covers, or with comprehensive planning being carried on for, the area in which the land is situated, and which meets criteria established by the Secretary for such comprehensive plans or planning.

(Pub. L. 90–448, title IV, § 404, Aug. 1, 1968, 82 Stat. 514.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1492, 3902 of this title.

§ 3904. Eligible bonds, debentures, notes or other obligations; limitation on amount outstanding with respect to projects.

(a) Any bond, debenture, note or other obligation guaranteed under this chapter shall—

(1) be issued by a new community developer, other than a public body, approved by the Secretary on the basis of financial, technical and administrative ability which demonstrates his capacity to carry out the proposed project;

(2) be issued to and held by investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(3) be issued to finance a program of land development (including acquisition or use of land) approved by the Secretary: *Provided,* That the Secretary shall, through cost certification procedures, escrow or trusteeship requirements, or other means, insure that all proceeds from the sale of obligations guaranteed under this chapter are expended pursuant to such program;

(4) involve a principal obligation in an amount not to exceed the lesser of (A) 80 per centum of the Secretary's estimate of the value of the property upon completion of the land development or (B) the sum of 75 per centum of the Secretary's estimate of the value of the land before development and 90 per centum of his estimate of the actual cost of the land development;

(5) bear interest at a rate satisfactory to the Secretary, such interest to be exclusive of any service charges and fees that may be approved by the Secretary;

(6) contain repayment and maturity provisions satisfactory to the Secretary; and

(7) contain provisions which the Secretary shall prescribe with respect to the protection of the security interests of the United States (including subrogation provisions), liens and releases of liens, payment of taxes, and such other matters as the Secretary may, in his discretion, prescribe.

(b) The outstanding principal obligations guaranteed under this chapter with respect to a single new community development project shall at no time exceed $50,000,000. (Pub. L. 90–448, title IV, § 405, Aug. 1, 1968, 82 Stat. 514.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1492, 3902 of this title.

§ 3905. Fees and charges; report to the Congress.

The Secretary is authorized to establish and collect fees for guarantees made under this chapter and may make such charges as he considers reasonable for the analysis of development and financing plans and for appraisals and inspections related to new community development projects. On or before January 1, 1970, the Secretary shall make a report to the Congress concerning the fees and other charges under this chapter that he estimates will be adequate to provide income sufficient for a self-supporting program. (Pub. L. 90–448, title IV, § 406, Aug. 1, 1968, 82 Stat. 515.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3906. Guarantee fund.

(a) Establishment; deposits to fund; issuance of obligations to Secretary of the Treasury; purchase of obligations.

To provide for the payment of any liabilities incurred as a result of guarantees made under this chapter, the Secretary is authorized to establish a revolving fund which shall be comprised of (1) receipts from fees and charges; (2) recoveries under security or subrogation rights or other rights, and any other receipts obtained in connection with such guarantees; and (3) such sums, which are hereby authorized to be appropriated, as may be required for program operations and nonadministrative expenses and to make any and all payments guaranteed under this chapter. The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this chapter. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under such Act are extended to include purchases of the Secretary's obligations hereunder.

(b) Full faith and credit.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this chapter with respect to both principal and interest, including (1) interest, as may be provided

for in the guarantee, accruing between the date of default under a guaranteed obligation and the payment in full of the guarantee, and (2) principal and interest due under any debentures issued by the Secretary toward payment of guarantees made under this chapter.

(c) Payment of expenses or charges in connection with acquisition, handling, improvement, or disposal of acquired property; collection of claims.

Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the guarantee fund authorized under this section, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property acquired by him under this chapter; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in carrying out this chapter.

(d) Aggregate amount of principal obligations outstanding.

The aggregate of the outstanding principal obligations guaranteed under this chapter shall at no time exceed $500,000,000. (Pub. L. 90–448, title IV, § 407, Aug. 1, 1968, 82 Stat. 515; Pub. L. 91–351, title VII, § 703, July 24, 1970, 84 Stat. 462; Pub. L. 91–609, title III, § 303(a), Dec. 31, 1970, 84 Stat. 1780.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (a), is classified to sections 745, 752–754b, 757, 757b–757e, 758, 760, 764–766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–351 added the provisions authorizing the Secretary to issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this chapter, and the provisions authorizing and directing the Secretary of the Treasury to purchase any obligations of the Secretary issued under this subsection.

Subsec. (d) Pub. L. 91–609 increased aggregate amount of principal obligations outstanding from "$250,000,000" to "$500,000,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3907. Incontestability of guarantees.

Any guarantee made by the Secretary under this chapter shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation. (Pub. L. 90–448, title IV, § 408, Aug. 1, 1968, 82 Stat. 516; Pub. L. 91–609, title III, § 303(c), Dec. 31, 1970, 84 Stat. 1780.)

AMENDMENTS

1970—Pub. L. 91–609 deleted "qualified" following "hands of a" and "except for fraud or material misrepresentation on the part of such holder" following "guaranteed obligation".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3908. Encouragement of small builders.

The Secretary shall adopt such requirements as he deems necessary to assure that new community construction assisted under this chapter will encourage the maintenance of a diversified local homebuilding industry and broad participation by builders, particularly small builders. (Pub. L. 90–448, title IV, § 409, Aug. 1, 1968, 82 Stat. 516.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3909. Labor standards.

All laborers and mechanics employed by contractors or subcontractors in land development assisted under section 3902 of this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. No assistance shall be extended under section 3902 of this title for land development without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in such development. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 90–448, title IV, § 410, Aug. 1, 1968, 82 Stat. 516.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in text, is classified to sections 276a to 276a–5 of Title 40, Public Building, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3910. Real property taxation.

Nothing in this chapter shall be construed to exempt any real property that may be acquired and held by the Secretary as a result of the exercise of lien or subrogation rights from real property taxation to the same extent, according to its value, as other real property is taxed. (Pub. L. 90–448, title IV, § 411, Aug. 1, 1968, 82 Stat. 516.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3911. Supplementary grants.

(a) Authorization.

The Secretary is authorized to make supplementary grants to State and local public bodies and agencies carrying out new community assistance projects, as defined in section 3914(c) of this title, if the Secretary determines that such grants are necessary or desirable for carrying out a new community development project approved for assistance under section 3902 of this title, and that a substantial number of housing units for low and moderate income persons is to be made available through such development project.

(b) Limitation on grant; total Federal contributions.

In no case shall any grant under this section exceed 20 per centum of the cost of the new community assistance project for which the grant is made; and

in no case shall the total Federal contributions to the cost of such project be more than 80 per centum.

(c) Consultation with Secretary of Agriculture.

In carrying out his authority under this section the Secretary shall consult with the Secretary of Agriculture with respect to new community assistance projects assisted by that Department, and he shall, for the purpose of subsection (b) of this section, accept that Department's certifications as to the cost of such projects.

(d) Authorization of appropriations.

There are authorized to be appropriated for grants under this section not to exceed $5,000,000 for the fiscal year ending June 30, 1969, and not to exceed $25,000,000 for the fiscal year ending June 30, 1970. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this subsection but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1974. (Pub. L. 90–448, title IV, § 412, 1, 1968, 82 Stat. 516; Pub. L. 91–152, title III, § 304, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–609, title III, § 303(b), Dec. 31, 1970, 84 Stat. 1780.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91–609 substituted "July 1, 1974" for "July 1, 1971".

1969—Subsec. (d). Pub. L. 91–152 substituted "July 1, 1971" for "July 1, 1970".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1492, 3912 of this title.

§ 3912. Functions, powers, and duties of Secretary.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 1749a, except subsections (c)(2), (d), and (f), of Title 12: *Provided,* That subsection (a)(1) of section 1749a of Title 12 shall not apply with respect to functions, powers, and duties under section 3911 of this title. (Pub. L. 90–448, title IV, § 413, Aug. 1, 1968, 82 Stat. 517.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3913. Audit of financial transactions.

Insofar as they relate to any grants or guarantees made pursuant to this chapter, the financial transactions of recipients of Federal grants or of developers whose obligations are guaranteed by the United States pursuant to this chapter may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by such developers or recipients of grants pertaining to such financial transactions and necessary to facilitate the audit. (Pub. L. 90–448, title IV, § 414, Aug. 1, 1968, 82 Stat. 517.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1492 of this title.

§ 3914. Definitions.

As used in this chapter—

(a) The term "land development" means the process of grading land, making, installing, or constructing water lines and water supply installations, sewer lines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" shall not include any building unless it is (1) a building which is needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (2) a building, other than a school, which is to be owned and maintained jointly by the residents of the new community or is to be transferred to public ownership, but not prior to its completion.

(b) The term "actual costs" means the costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this chapter. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architects' fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the new community developer and a contractor, there may be included as a part of actual costs an allowance for the contractor's profit in an amount deemed reasonable by the Secretary.

(c) The term "new community assistance projects" means projects assisted by grants made under section 3102 of this title, section 1926(a)(2) of Title 7, or sections 1500 to 1500e of this title. (Pub. L. 90–448, title IV, § 415, Aug. 1, 1968, 82 Stat. 517.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1492, 3911 of this title.

Chapter 49.—NATIONAL HOUSING PARTNERSHIPS

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(f) Partnership agreement; authorization for stockholders to become limited partners; inclusion of other limited partners; acquisition of assignor's stock by assignee of limited partner; approval of substitution or addition of partnership member.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 12 section 24.

§ 3931. Congressional statement of purpose.

The Congress finds that the volume of housing being produced for families and individuals of low or moderate income must be increased to meet the national goal of a decent home and a suitable living environment for every American family, and declares that it is the policy of the United States to encourage the widest possible participation by private enterprise in the provision of housing for low or moderate income families. The Congress has therefore determined that one or more private organizations should be created to encourage maximum participation by private investors in programs and projects to provide low and moderate income housing. (Pub. L. 90–448, title IX, § 901, Aug. 1, 1968, 82 Stat. 547.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3932. Creation of corporations.

(a) Authorization.

There is hereby authorized to be created a private corporation for profit (hereinafter in this chapter referred to as the "corporation"). The corporation will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act (D.C. Code, sec. 29–901 et seq.).

(b) Creation of additional corporations.

Whenever the President finds it in the national interest to do so, he may cause the creation of an additional corporation or additional corporations to carry out the purposes of this chapter. All the provisions of this chapter shall thereupon become applicable to each such corporation, and to the limited partnership formed by it pursuant to section 3937 of this title.

(c) Creation of corporations and organization of other partnerships, joint ventures, or associations by private persons.

Nothing in this chapter shall be construed to preclude private persons from creating other corporations and organizing other partnerships, joint ventures, or associations for the purposes set forth in this chapter as the purposes of the corporation and the partnership described in section 3937 of this title. (Pub. L. 90–448, title IX, § 902, Aug. 1, 1968, 82 Stat. 547.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3933. Organization of corporation.

(a) Appointment of incorporators; Chairman; initial board of directors.

The President of the United States shall appoint, by and with the advice and consent of the Senate, incorporators of the corporation, one of whom shall be designated by the President to serve as chairman. The incorporators shall serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and have qualified.

(b) Action by incorporators; filing articles of incorporation.

The incorporators shall take whatever actions are necessary or appropriate to establish the corporation, including the filing of articles of incorporation as approved by the President.

(c) Initial offering of stock in corporation and of interests in partnership; terms of offering.

The incorporators shall also arrange for an initial offering of shares of stock in the corporation and of interests in the partnership described in section 3937 of this title. If the incorporators deem it advisable in order to carry out the purposes of this chapter, the initial offering may be made upon terms which require the purchase of other securities of the corporation or of interests in such partnership. (Pub. L. 90–448, title IX, § 903, Aug. 1, 1968, 82 Stat. 547.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3934. Board of Directors; membership; appointment; term.

The corporation shall have a board of directors (hereinafter in this section referred to as the "board"), consisting of fifteen members. Three members of the board shall be appointed by the President

of the United States, by and with the advice and consent of the Senate, effective on the date on which the other members are elected, and for terms of three years or until their successors have been appointed and have qualified, except that the first three members of the board so appointed shall continue in office for terms of one, two, and three years, respectively, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. Twelve members of the board shall be elected by the stockholders. (Pub. L. 90–448, title IX, § 904, Aug. 1, 1968, 82 Stat. 547.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3935. Financing the corporation.

The corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, voting powers, and special or relative rights and such limitations, restrictions, or qualifications thereof as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting power of the shares of any class. (Pub. L. 90–448, title IX, § 905, Aug. 1, 1968, 82 Stat. 548.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3936. Purposes and powers of corporation.

(a) Building or rehabilitation of housing and related facilities for families and individuals of low or moderate income; acquisition and disposal of property; funds.

In order to achieve the obectives and carry out the purposes of this chapter, the corporation is authorized to—

(1) plan, initiate, and carry out, pursuant to Federal programs or otherwise, the building or rehabilitation of housing and related facilities primarily for the benefit of families and individuals of low or moderate income;

(2) buy, own, manage, lease, or otherwise acquire or dispose of property in connection with the developments, projects, or undertakings referred to in paragraph (1); and

(3) provide such funds as may be necessary to accomplish the developments, projects, or undertakings referred to in paragraph (1).

(b) Authorization to enter into partnerships, limited partnerships, joint ventures, and other associations; manager or general partner of partnership, venture, or association; research and studies; technical assistance; loans or grants; hire or acceptance of services of consultants, experts, advisory boards and panels.

Included in the activities authorized to the corporation for the accomplishment of the purposes indicated in subsection (a) of this section are, among others not specifically named—

(1) to enter into partnerships, limited partnerships, joint ventures, and other associations with individuals, corporations, and private and governmental agencies, organizations, and institutions;

(2) to act as manager or general partner of any such partnership, venture, or association;

(3) to conduct or contract for research and studies related to the development, demonstration, and evaluation of improved techniques and methods of constructing, rehabilitating, and maintaining housing;

(4) to provide technical assistance to nonprofit corporations, limited dividend corporations, and others with respect to the planning, financing, construction, rehabilitation, maintenance, and management of housing for low and moderate income families and individuals;

(5) to make loans or grants including grants of interests in housing and related facilities, to nonprofit corporations, limited dividend corporations, and others, in carrying out its activities under subsection (a) of this section; and

(6) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the corporation in carrying out the purposes of this chapter.

(c) Exercise of powers conferred upon stock corporation by District of Columbia Business Corporation Act.

To carry out the foregoing purposes and engage in the foregoing activities, the corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

(d) Labor standards.

Nothing in this chapter shall have the effect of waiving or otherwise affecting the applicability of the provisions of the Davis-Bacon Act, or any other law requiring compliance with labor standards, in the case of any construction to which such provisions would otherwise apply. (Pub. L. 90–448, title IX, § 906, Aug. 1, 1968, 82 Stat. 548.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (c), is classified to section 29–901 et seq. of the D.C. Code.

The Davis-Bacon Act, referred to in subsec. (d), is classified to sections 276a to 276a–5 of Title 40, Public Buildings, Property and Works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3937 of this title and in title 12 section 24.

§ 3937. National housing partnership.

(a) Formation of limited partnership; partnership agreement.

The corporation is authorized to arrange for the formation, as a separate organization, of a limited partnership (hereinafter in this chapter referred to as the "partnership") under the District of Columbia Uniform Limited Partnership Act (D.C. Code, sec. 41–401 et seq.) for the purpose of engaging in any of the activities authorized for the corporation under section 3936 of this title, and to enter into a partnership agreement governing the affairs of such limited partnership.

(b) Applicability of other laws; legal status of limited partnership.

The partnership shall be subject to the provisions, to the extent consistent with this chapter, of (1) the District of Columbia Uniform Limited Partnership Act and (2) those provisions of the District of Columbia Uniform Partnership Act (D.C. Code, sec. 41–

301 et seq.) made applicable by section 6(2) of that Act (D.C. Code, sec. 41-305(2)). Notwithstanding any inconsistency between the provisions of such Acts, or of any other law, and the provisions of this section, the partnership organized pursuant to this section shall be deemed to have the legal status of a limited partnership.

(c) Authorization to enter into partnerships, limited partnerships, or joint ventures organized under State or local laws for purpose of engaging in low and moderate income housing developments, projects, or undertakings.

The partnership is authorized to enter into partnerships, limited partnerships, or joint ventures organized under applicable State or local law for the purpose of engaging in low and moderate income housing developments, projects, or undertakings in particular localities.

(d) General partner; capital of partnership; contribution of partners.

The corporation shall be the general partner in the partnership. The capital of the partnership and the contributions of the partners shall be in such amounts and at such times as are set forth in or pursuant to the partnership agreement.

(e) Partnership agreement; participation in low and moderate income housing developments, projects, or undertakings; limitation on aggregate initial equity investment.

The partnership agreement shall include provisions designed to assure that (1) the partnership shall participate in low and moderate income housing developments, projects, or undertakings in a manner designed to encourage the participation therein of local interests, and (2) in any such development, project, or undertaking the partnership shall not subscribe to more than 25 per centum (including equity investments made in services or property) of the aggregate initial equity investment unless, in the judgment of the corporation as general partner, the balance of the required equity investment is not readily obtainable from other responsible investors residing or doing business in the local community.

(f) Partnership agreement; authorization for stockholders to become limited partners; inclusion of other limited partners; acquisition of assignor's stock by assignee of limited partner; approval of substitution or addition of partnership member.

The partnership agreement may without limitation (1) permit each of the stockholders of the corporation to become a member of the partnership as a limited partner, (2) authorize the inclusion of other limited partners in addition to the stockholders of the corporation, (3) provide that the assignee of the partnership interest of a limited partner of the partnership who is also a stockholder of the corporation may not become a substituted limited partner unless he also acquires the assignor's stock of the corporation, and (4) include provisions requiring that the corporation as a general partner approve the substitution or addition of a member of the partnership.

(g) Liability of corporation as general partner; treatment of interest of limited partner in partnership.

A corporation which is a limited partner in the partnership shall not become liable as a general partner by reason of the fact that (1) such corporation is a holder of shares of voting stock of the corporation constituting not more than 5 per centum of the total number of outstanding shares of such stock and exercises any of the rights (including voting rights) of a holder of such shares, and/or (2) a person who is an officer or director of such corporation (or of another corporation which controls or is subject to the control of, or is under common control with, such corporation) is a director of the corporation and performs the duties of that office. The interest of a limited partner in the partnership shall not be treated as a stock interest in the corporation, notwithstanding that such interest of a limited partner may be proportionate to his stock interest in the corporation.

(h) Execution of certificate of partnership and amendments.

The certificate of the partnership and any amendment thereof required by the District of Columbia Uniform Limited Partnership Act shall be executed and acknowledged by the corporation as member and by each other member of the partnership or his attorney-in-fact duly authorized by power of attorney in writing. The corporation may execute and acknowledge the certificate and any amendment thereof as attorney-in-fact for any member, member to be substituted or added, or assigning member, by whom the certificate or amendment is required to be executed and acknowledged and who has appointed the corporation as such attorney. (Pub. L. 90-448, title IX, § 907, Aug. 1, 1968, 82 Stat. 549.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3932, 3933 of this title and in title 12 section 24.

§ 3938. Annual report of corporation; audit of accounts.

(a) The corporation shall submit an annual report to the President for transmittal to the Congress within six months after the end of its fiscal year. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the corporation and the partnership under this chapter.

(b) The accounts of the corporation and of the partnership shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. (Pub. L. 90-448, title IX, § 908, Aug. 1, 1968, 82 Stat. 550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3939. Applicability of antitrust laws.

Nothing contained herein shall affect the applicability of the Federal antitrust laws to the activities of the corporation and the partnership created under this chapter and of the persons participating therein or in partnerships, limited partnerships, or joint ventures with either of them. (Pub. L. 90-448, title IX, § 909, Aug. 1, 1968, 82 Stat. 550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3940. Reservation of right to repeal, alter, or amend chapter.

The right to repeal, alter, or amend this chapter at any time is expressly reserved. (Pub. L. 90-448, title IX, § 910, Aug. 1, 1968, 82 Stat. 550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 24.

§ 3941. State or local taxation or regulation; access to judicial process.

Nothing contained in this chapter shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction, or be subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or other local jurisdiction. (Pub. L. 90-448, title IX, § 912, as added Pub. L. 91-351, title VIII, § 711, July 24, 1970, 84 Stat. 463.)

Chapter 50.—NATIONAL FLOOD INSURANCE

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§ 4001. Congressional findings and declaration of purpose.

(a) The Congress finds that (1) from time to time flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources; (2) despite the installation of preventive and protective works and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to protect adequately against growing exposure to future flood losses; (3) as a matter of national policy, a reasonable method of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures; and (4) if such a program is initiated and carried out gradually, it can be expanded as knowledge is gained and experience is appraised, thus eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

(b) The Congress also finds that (1) many factors have made it uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but (2) a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

(c) The Congress further finds that (1) a program of flood insurance can promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses; and (2) the objectives of a flood insurance program should be integrally related to a unified national program for flood plain management and, to this end, it is the sense of Congress that within two years following the effective date of this chapter the President should transmit to the Congress for its consideration any further proposals necessary for such a unified program, including proposals for the allocation of costs among beneficiaries of flood protection.

(d) It is therefore the purpose of this chapter to (1) authorize a flood insurance program by means of which flood insurance, over a period of time, can be made available on a nationwide basis through the cooperative efforts of the Federal Government and the private insurance industry, and (2) provide flexibility in the program so that such flood insurance may be based on workable methods of pooling risks, minimizing costs, and distributing burdens equitably among those who will be protected by flood insurance and the general public.

(e) It is the further purpose of this chapter to (1) encourage State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses, (2) guide the development of proposed future construction, where practicable, away from locations which are threatened by flood hazards, (3) encourage lending and credit institutions, as a matter of national policy, to assist in furthering the objectives of the flood insurance program, (4) assure that any Federal assistance provided under the program will be related closely to all flood-related programs and activities of the Federal Government, and (5) authorize continuing studies of flood hazards in order to provide for a constant reappraisal of the flood insurance program and its effect on land use requirements.

(f) The Congress also finds that (1) the damage and loss which results from mudslides is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from mudslides that are caused by accumulations of water on or under the ground. (Pub. L. 90–448, title XIII, § 1302, Aug. 1, 1968, 82 Stat. 572; Pub. L. 91–152, title IV, § 409(a), Dec. 24, 1969, 83 Stat. 397.)

AMENDMENTS

1969—Subsec. (f). Pub. L. 91–152 added subsec. (f).

EFFECTIVE DATE

Section 1377 of Pub. L. 90–448 provided that: "This title [enacting this chapter, amending section 2414(e) of this title, repealing sections 2401—2413, 2414(a)—(d), (f), (g), and 2415—2421 of this title, and enacting provisions set out as notes under this section] shall take effect one hundred and twenty days following the date of its enactment [Aug. 1, 1968], except that the Secretary, on the basis of a finding that conditions exist necessitating the prescribing of an additional period, may prescribe a later effective date which in no event shall be more than one hundred and eighty days following such date of enactment."

SHORT TITLE

Section 1301 of Pub. L. 90–448 provided that: "This title [enacting this chapter, amending section 2414(e) of this title, repealing sections 2401—2413, 2414(a)—(d), (f), (g), and 2415—2421 of this title, and enacting provisions set out as a note under this section] may be cited as the 'National Flood Insurance Act of 1968'."

SUBCHAPTER I.—THE NATIONAL FLOOD INSURANCE PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4041, 4051, 4056, 4071 of this title.

§ 4011. Authorization to establish and carry out program; participation by insurance companies and other insurers.

(a) To carry out the purposes of this chapter, the Secretary of Housing and Urban Development is authorized to establish and carry out a national flood insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any flood occurring in the United States.

(b) In carrying out the flood insurance program the Secretary shall, to the maximum extent practicable, encourage and arrange for—

(1) appropriate financial participation and risk sharing in the program by insurance companies and other insurers, and

(2) other appropriate participation, on other than a risk-sharing basis, by insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations,

in accordance with the provisions of subchapter II of this chapter. (Pub. L. 90–448, title XIII, § 1304, Aug. 1, 1968, 82 Stat. 574.)

§ 4012. Scope of program and priorities.

(a) Priority for insurance for certain residential property and small business concerns.

In carrying out the flood insurance program the Secretary shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families and business properties which are owned or leased and operated by small business concerns.

(b) Availability of insurance for other properties.

If on the basis of—

(1) studies and investigations undertaken and carried out and information received or exchanged under section 4014 of this title, and

(2) such other information as may be necessary,

the Secretary determines that it would be feasible to extend the flood insurance program to cover other properties, he may take such action under this chapter as from time to time may be necessary in order to make flood insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) other residential properties,

(B) other business properties,

(C) agricultural properties,

(D) properties occupied by private nonprofit organizations, and

(E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

(c) Availability of insurance in States or areas evidencing positive interest in securing insurance and assuring adoption of adequate land use and control measures.

The Secretary shall make flood insurance available in only those States or areas (or subdivisions thereof) which he has determined have—

(1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, and

(2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 4102 of this title, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available.

(Pub. L. 90–448, title XIII, § 1305, Aug. 1, 1968, 82 Stat. 574; Pub. L. 91–152, title IV, § 410(a), Dec. 24, 1969, 83 Stat. 397.)

AMENDMENTS

1969—Subsec. (c)(2). Pub. L. 91–152 substituted "December 31, 1971, adequate" for "June 30, 1970, permanent".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013—4015 of this title.

§ 4013. Nature and limitation of insurance coverage; regulations.

(a) The Secretary shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 4012 of this title, including—

(1) the types, classes, and locations of any such properties which shall be eligible for flood insurance;

(2) the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be advisable;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the purposes of this chapter.

(b) In addition to any other terms and conditions under subsection (a) of this section, such regulations shall provide that—

(1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—

(A) in the case of residential properties which are designed for the occupancy of from one to four families—

(i) $17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure containing more than one dwelling unit, and

(ii) $5,000 aggregate liability per dwelling unit for any contents related to such unit;

(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small

business occupants (as that term is defined by the Secretary), which shall be equal to (i) $30,000 plus (ii) $5,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the Secretary; except that the aggregate liability for the structure itself may in no case exceed $30,000; and

(C) in the case of any other properties which may become eligible for flood insurance coverage under section 4012 of this title—

(i) $30,000 aggregate liability for any single structure, and

(ii) $5,000 aggregate liability per dwelling unit for any contents related to such unit in the case of residential properties, or per occupant (as that term is defined by the Secretary) for any contents related to the premises occupied in the case of any other properties; and

(2) any flood insurance coverage which may be made available in excess of any of the limits specified in subparagraph (A), (B), or (C) of paragraph (1) (or allocated to any person under subparagraph (B) of such paragraph) shall be based only on chargeable premium rates under section 4015 of this title which are not less than the estimated premium rates under section 4014 (a) (1) of this title, and the amount of such excess coverage shall not in any case exceed an amount which is equal to the applicable limit so specified (or allocated).

(Pub. L. 90–448, title XIII, § 1306, Aug. 1, 1968, 82 Stat. 575.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4021 of this title.

§ 4014. Estimates of premium rates.

(a) Studies and investigations.

The Secretary is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be necessary to estimate, and shall from time to time estimate, on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for flood insurance which—

(A) based on consideration of the risk involved and accepted actuarial principles, and

(B) including—

(i) the applicable operating costs and allowances set forth in the schedules prescribed under section 4018 of this title and reflected in such rates, and

(ii) any administrative expenses (or portion of such expenses) of carrying out the flood insurance program which, in his discretion, should properly be reflected in such rates,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage is available under section 4012(a) of this title (or is recommended to the Congress under section 4012(b) of this title);

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase flood insurance, and would be consistent with the purposes of this chapter; and

(3) the extent, if any, to which federally assisted or other flood protection measures initiated after August 1, 1968, affect such rates.

(b) Utilization of services of other Departments and agencies.

In carrying out subsection (a) of this section, the Secretary shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

(c) Priority to studies and investigations in States or areas evidencing positive interest in securing insurance under program.

The Secretary shall give priority to conducting studies and investigations and making estimates under this section in those States or areas (or subdivisions thereof) which he has determined have evidenced a positive interest in securing flood insurance coverage under the flood insurance program. (Pub. L. 90–448, title XIII, § 1307, Aug. 1, 1968, 82 Stat. 576.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4013, 4015, 4054, 4056 of this title.

§ 4015. Chargeable premium rates.

(a) Establishment; terms and conditions.

On the basis of estimates made under section 4014 of this title, and such other information as may be necessary, the Secretary shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, prescribe by regulation—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 4012 of this title (at less than the estimated risk premium rates under section 4014(a) (1) of this title, where necessary), and

(2) the terms and conditions under which, and the areas (including subdivisions thereof) within which, such rates shall apply.

(b) Considerations for rates.

Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved, including differences in risks due to land use measures, flood-proofing, flood forecasting, and similar measures.

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance and with the purposes of this chapter, and

(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 4014(a)(1) of this title and the estimated rates under section 4014(a)(2) of this title.

(c) Rate with respect to property the construction or substantial improvement of which has been started after identification of area in which property is located has been published.

Nothwithstanding any other provision of this chapter, the chargeable rate with respect to any property, the construction or substantial improvement of which the Secretary determines has been started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title.

(d) Payment of certain sums to Secretary; deposits in Fund.

In the event any chargeable premium rate prescribed under this section—

(1) is a rate which is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, and

(2) includes any amount for administrative expenses of carrying out the flood inusrance program which have been estimated under clause (ii) of section 4014(a)(1)(B) of this title,

a sum equal to such amount shall be paid to the Secretary, and he shall deposit such sum in the National Flood Insurance Fund established under section 4017 of this title. (Pub. L. 90–448, title XIII, § 1308, Aug. 1, 1968, 82 Stat. 576.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4017, 4020 4054 of this title.

§ 4016. Financing provisions; issuance of notes or other obligations; limitation; deposits in Fund.

(a) All authority which was vested in the Housing and Home Finance Administrator by virtue of section 2414(e) of this title (pertaining to the issue of notes or other obligations to the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Secretary for the purpose of carrying out the flood insurance program under this chapter; except that the total amount of notes and obligations which may be issued by the Secretary pursuant to such authority shall not exceed $250,000,000, and all authority of the Secretary to issue notes and obligations under said section 2414(e) beyond such sum is hereby rescinded.

(b) Any funds borrowed by the Secretary under this authority shall, from time to time, be deposited in the National Flood Insurance Fund established under section 4017 of this title. (Pub. L. 90–448, title XIII, § 1309, Aug. 1, 1968, 82 Stat. 577.)

REFERENCES IN TEXT

Section 1303 of this Act, referred to in subsec. (a), means section 1303 of Pub. L. 90–448, which amended section 2414(e) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4017 of this title.

§ 4017. National Flood Insurance Fund.

(a) Establishment; availability.

To carry out the flood insurance program authorized by this chapter, the Secretary is authorized to establish in the Treasury of the United States a National Flood Insurance Fund (hereinafter referred to as the "fund") which shall be available, without fiscal year limitation—

(1) for making such payments as may, from time to time, be required under section 4054 of this title;

(2) to pay reinsurance claims under the excess loss reinsurance coverage provided under section 4055 of this title;

(3) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 4016 of this title; and

(4) to pay such administrative expenses (or portion of such expenses) of carrying out the flood insurance program as he may deem necessary; and

(5) for the purposes specified in subsection (d) of this section under the conditions provided therein.

(b) Credits to Fund.

The fund shall be credited with—

(1) such funds borrowed in accordance with the authority provided in section 4016 of this title as may from time to time be deposited in the fund;

(2) premiums, fees, or other charges which may be paid or collected in connection with the excess loss reinsurance coverage provided under section 4055 of this title;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) interest which may be earned on investments of the fund pursuant to subsection (c) of this section;

(5) such sums as are required to be paid to the Secretary under section 4015(d) of this title; and

(6) receipts from any other operations under this chapter (including premiums under the conditions specified in subsection (d) of this section, and salvage proceeds, if any, resulting from reinsurance coverage).

(c) Investment of moneys in obligations issued or guaranteed by United States.

If, after—

(1) all outstanding obligations of the fund have been liquidated, and

(2) any outstanding amounts which may have been advanced to the fund from appropriations authorized under section 4127(a)(2)(B) of this title have been credited to the appropriation from which advanced, with interest accrued at the rate prescribed under section 2414(e) of this title, as in effect immediately prior to the enactment of this chapter,

the Secretary determines that the moneys of the fund are in excess of current needs, he may request

the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) Availability of Fund if operation of program is carried out through facilities of Federal Government.

In the event the Secretary makes a determination in accordance with the provisions of section 4071 of this title that operation of the flood insurance program, in whole or in part, should be carried out through the facilities of the Federal Government, the fund shall be available for all purposes incident thereto, including—

(1) cost incurred in the adjustment and payment of any claims for losses, and

(2) payment of applicable operating costs set forth in the schedules prescribed under section 4018 of this title,

for so long as the program is so carried out, and in such event any premiums paid shall be deposited by the Secretary to the credit of the fund.

(e) Annual budget.

An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 847, 848, and 849 of Title 31) for wholly-owned Government corporations. (Pub. L. 90–448, title XIII, § 1310, Aug. 1, 1968, 82 Stat. 577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4015, 4016, 4127 of this title.

§ 4018. Operating costs and allowances; definitions.

(a) The Secretary shall from time to time negotiate with appropriate representatives of the insurance industry for the purpose of establishing—

(1) a current schedule of operating costs applicable both to risk-sharing insurance companies and other insurers and to insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations participating on other than a risk-sharing basis, and

(2) a current schedule of operating allowances applicable to risk-sharing insurance companies and other insurers,

which may be payable in accordance with the provisions of subchapter II of this chapter, and such schedules shall from time to time be prescribed in regulations.

(b) For purposes of subsection (a) of this section—

(1) the term "operating costs" shall (without limiting such term) include—

(A) expense reimbursements covering the direct, actual, and necessary expenses incurred in connection with selling and servicing flood insurance coverage;

(B) reasonable compensation payable for selling and servicing flood insurance coverage, or commissions or service fees paid to producers;

(C) loss adjustment expenses; and

(D) other direct, actual, and necessary expenses which the Secretary finds are incurred in connection with selling or servicing flood insurance coverage; and

(2) the term "operating allowances" shall (without limiting such term) include amounts for profit and contingencies which the Secretary finds reasonable and necessary to carry out the purposes of this chapter.

(Pub. L. 90–448, title XIII, § 1311, Aug. 1, 1968, 82 Stat. 579.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4014, 4017, 4052, 4054, 4081 of this title.

§ 4019. Payment of claims.

The Secretary is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance made available under the provisions of this chapter. (Pub. L. 90–448, title XIII, § 1312, Aug. 1, 1968, 82 Stat. 579.)

§ 4020. Dissemination of flood insurance information.

The Secretary shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to—

(1) the flood insurance program, its coverage and objectives, and

(2) estimated and chargeable flood insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 4015 of this title.

(Pub. L. 90–448, title XIII, § 1313, Aug. 1, 1968, 82 Stat. 579.)

§ 4021. Prohibition against certain duplication of benefits; definitions.

(a) Notwithstanding the provisions of any other law, no Federal disaster assistance shall be made available to any person—

(1) for the physical loss, destruction, or damage of real or personal property, to the extent that such loss, destruction, or damage is covered by a valid claim which may be adjusted and paid under flood insurance made available under the authority of this chapter, or

(2) except in the situation provided for under subsection (b) of this section, for the physical loss, destruction, or damage of real or personal property, to the extent that such loss, destruction, or damage could have been covered by a valid claim under flood insurance which had been made available under the authority of this chapter, if—

(A) such loss, destruction, or damage occurred subsequent to one year following the date flood insurance was made available in the area (or subdivision thereof) in which such property or the major part thereof was located, and

(B) such property was eligible for flood insurance under this chapter at that date;

and in such circumstances the extent that such loss, destruction, or damage could have been covered shall be presumed (for purposes of this subsection) to be an amount not less than the maximum limit of insurable loss or damage applicable to such property in such area (or subdivision thereof), pursuant to regulations under section

4013 of this title, at the time insurance was made available in such area (or subdivision thereof).

(b) In order to assure that the provisions of subsection (a)(2) of this section will not create undue hardship for low-income persons who might otherwise benefit from the provision of Federal disaster assistance, the Secretary shall provide by regulation for the circumstances in which the provisions of subsection (a)(2) of this section shall not be applicable to any such persons.

(c) For purposes of this section, "Federal disaster assistance" shall include any Federal financial assistance which may be made available to any person as a result of—

(1) a major disaster (within the meaning of that term as determined by the President pursuant to sections 1855 to 1855g of this title).

(2) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 1961 of Title 7, or

(3) a disaster with respect to which loans may be made under section 636(b) of Title 15.

(d) For purposes of section 1855ff of this title, the term "financial assistance" shall be deemed to include any flood insurance which is made available under this chapter. (Pub. L. 90–448, title XIII, § 1314, Aug. 1, 1968, 82 Stat. 579.)

§ 4022. State and local land use controls.

After December 31, 1971, no new flood insurance coverage shall be provided under this chapter in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Secretary finds are consistent with the comprehensive criteria for land management and use under section 4102 of this title. (Pub. L. 90–448, title XIII, § 1315, Aug. 1, 1968, 82 Stat. 580; Pub. L. 91–152, title IV, § 410(b), Dec. 24, 1969, 83 Stat. 397.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions prohibiting new flood insurance coverage after Dec. 31, 1971 unless adequate land use measures have been adopted, for provisions prohibiting such coverage after June 30, 1970 unless permanent land use measures have been adopted.

§ 4023. Properties in violation of State and local law.

No new flood insurance coverage shall be provided under this chapter for any property which the Secretary finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas. (Pub. L. 90–448, title XIII, § 1316, Aug. 1, 1968, 82 Stat. 580.)

§ 4024. Coordination with other programs.

In carrying out this chapter, the Secretary shall consult with other departments and agencies of the Federal Government, and with interstate, State, and local agencies having responsibilities for flood control, flood forecasting, or flood damage prevention, in order to assure that the programs of such agencies and the flood insurance program authorized under this chapter are mutually consistent. (Pub. L. 90–448, title XIII, § 1317, Aug. 1, 1968, 82 Stat. 581.)

§ 4025. Flood insurance advisory committee.

(a) Appointment; duties.

The Secretary shall appoint a flood insurance advisory committee without regard to the provisions of Title 5 governing appointments in the competitive service, and such committee shall advise the Secretary in the preparation of any regulations prescribed in accordance with this chapter and with respect to policy matters arising in the administration of this chapter, and shall perform such other responsibilities as the Secretary may, from time to time, assign to such committee.

(b) Membership.

Such committee shall consist of not more than fifteen persons and such persons shall be selected from among representatives of—

(1) the insurance industry,

(2) State and local governments,

(3) lending institutions,

(4) the homebuilding industry, and

(5) the general public.

(c) Compensation and travel expenses.

Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive compensation at a rate fixed by the Secretary but not exceeding $100 per day, including travel-time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of Title 5 for persons in the Government service employed intermittently. (Pub. L. 90–448, title XIII, § 1318, Aug. 1, 1968, 82 Stat. 581.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4015 of this title.

§ 4026. Limitation on flood insurance coverage outstanding.

The face amount of flood insurance coverage outstanding and in force at any one time under this chapter shall not exceed the sum of $2,500,000,000. (Pub. L. 90–448, title XIII, § 1319, Aug. 1, 1968, 82 Stat. 581.)

§ 4027. Annual report to the President.

The Secretary shall include a report of operations under this chapter in the annual report to the President for submission to the Congress required by section 3536 of this title. (Pub. L. 90–448, title XIII, § 1320, Aug. 1, 1968, 82 Stat. 581.)

SUBCHAPTER II.—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4011, 4018 of this title.

§ 4041. Implementation of program.

Following such consultation with representatives of the insurance industry as may be necessary, the Secretary shall implement the flood insurance pro-

gram authorized under subchapter I of this chapter in accordance with the provisions of part A of this subchapter and, if a determination is made by him under section 4071 of this title, under part B of this subchapter. (Pub. L. 90–448, title XIII, § 1330, Aug. 1, 1968, 82 Stat. 581.)

PART A.—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4041, 4071, 4084 of this title.

§ 4051. Industry flood insurance pool; requirements for participation.

(a) The Secretary is authorized to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

(1) in order to provide the flood insurance coverage authorized under subchapter I of this chapter; and

(2) for the purpose of assuming, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers, with the Federal financial and other assistance available under this chapter, to assume a reasonable proportion of responsibility for the adjustment and payment of claims for losses under the flood insurance program.

(b) In order to promote the effective administration of the flood insurance program under this part, and to assure that the objectives of this chapter are furthered, the Secretary is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets. (Pub. L. 90–448, title XIII, § 1331, Aug. 1, 1968, 82 Stat. 582.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4013, 4015, 4052, 4054, 4055, 4082 of this title.

§ 4052. Agreements with flood insurance pool; terms and conditions.

(a) The Secretary is authorized to enter into such agreements with the pool formed or otherwise created under this part as he deems necessary to carry out the purposes of this chapter.

(b) Such agreements shall specify—

(1) the terms and conditions under which risk capital will be available for the adjustment and payment of claims,

(2) the terms and conditions under which the pool (and the companies and other insurers participating therein) shall participate in premiums received and profits or losses realized or sustained,

(3) the maximum amount of profit, established by the Secretary and set forth in the schedules prescribed under section 4018 of this title, which may be realized by such pool (and the companies and other insurers participating therein),

(4) the terms and conditions under which operating costs and allowances set forth in the schedules prescribed under section 4018 of this title may be paid, and

(5) the terms and conditions under which premium equalization payments under section 4054 of this title will be made and reinsurance claims under section 4055 of this title will be paid.

(c) In addition, such agreements shall contain such provisions as the Secretary finds necessary to assure that—

(1) no insurance company or other insurer which meets the requirements prescribed under section 4051(b) of this title, and which has indicated an intention to participate in the flood insurance program on a risk-sharing basis, will be excluded from participating in the pool,

(2) the insurance companies and other insurers participating in the pool will take whatever action may be necessary to provide continuity of flood insurance coverage by the pool, and

(3) any insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations will be permitted to cooperate with the pool as fiscal agents or otherwise, on other than a risk-sharing basis, to the maximum extent practicable.

(Pub. L. 90–448, title XIII, § 1332, Aug. 1, 1968, 82 Stat. 582.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4054 of this title.

§ 4053. Adjustment and payment of claims; judicial review; limitations; jurisdiction.

The insurance companies and other insurers which form, associate, or otherwise join together in the pool under this part may adjust and pay all claims for proved and approved losses covered by flood insurance in accordance with the provisions of this chapter and, upon the disallowance by any such company or other insurer of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against such company or other insurer in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy. (Pub. L. 90–448, title XIII, § 1333, Aug. 1, 1968, 82 Stat. 583.)

§ 4054. Premium equalization payments; basis; aggregate amount; establishment of designated periods.

(a) The Secretary, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to the pool formed or otherwise created under section 4051 of this title, in recognition of such reductions in chargeable premium rates under section 4015 of this title below estimated premium rates under section 4014(a)(1) of this title as are required in order to make flood insurance available on reasonable terms and conditions.

(b) Such payments shall be based only on the aggregate amount of flood insurance retained by the pool after ceding reinsurance in accordance with

the provisions of section 4055 of this title, and shall not exceed an aggregate amount in any payment period equal to the sum of the following:

(1) an amount for losses which bears the same ratio to the amount of all proved and approved claims for losses under this chapter during any designated period as the amount equal to the difference between—

(A) the sum of all premium payments for flood insurance coverage in force under this chapter during such designated period which would have been payable during such period if all such coverage were based on estimated risk premium rates under section 4014(a)(1) of this title (excluding any administrative expenses which may be reflected in such rates, as specified in clause (ii) of section 4014(a)(1)(B) of this title), and

(B) the sum of the premium payments actually paid or payable for such insurance under this chapter during such period,

bears to the amount specified in clause (A); and

(2) subject to the terms and conditions specified in the agreements entered into with the pool under section 4052 of this title, a proportionate amount for appropriate operating costs and allowances (as set forth in the schedules prescribed under section 4018 of this title) during any designated period which bears the same ratio to the total amount of such operating costs and allowances during such period as the ratio specified in paragraph (1).

(c) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Secretary. (Pub. L. 90–448, title XIII, § 1334, Aug. 1, 1968, 82 Stat. 583.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4052, 4056, 4127 of this title.

§ 4055. Reinsurance coverage.

(a) Availability for excess losses.

The Secretary is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 4051 of this title, reinsurance for losses (due to claims for proved and approved losses covered by flood insurance) which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c) of this section.

(b) Availability pursuant to contract, agreement, or other arrangement; payment of premium, fee, or other charge.

Such reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Secretary finds necessary to cover anticipated losses and other costs of providing such reinsurance.

(c) Excess loss agreement; negotiation.

The Secretary is authorized to negotiate an excess loss agreement, from time to time, under which the amount of flood insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

(d) Submission of excess losses on portfolio basis.

All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Secretary. (Pub. L. 90–448, title XIII, § 1335, Aug. 1, 1968, 82 Stat. 583.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4052, 4054, 4127 of this title.

§ 4056. Emergency implementation of flood insurance program; applicability of other provisions of law.

(a) Notwithstanding any other provisions of this chapter, for the purpose of providing flood insurance coverage at the earliest possible time, the Secretary shall carry out the flood insurance program authorized under subchapter I of this chapter during the period ending December 31, 1971, in accordance with the provisions of this part and the other provisions of this chapter insofar as they relate to this part but subject to the modifications made by or under subsection (b) of this section.

(b) In carrying out the flood insurance program pursuant to subsection (a) of this section, the Secretary—

(1) shall provide insurance coverage without regard to any estimated risk premium rates which would otherwise be determined under section 4014 of this title; and

(2) shall utilize the provisions and procedures contained in or prescribed by this part (other than section 4054 of this title) and sections 4081 and 4082 of this title to such extent and in such manner as he may consider necessary or appropriate to carry out the purpose of this section.

(Pub. L. 90–448, title XIII, § 1336, as added Pub. L. 91–152, title IV, § 408, Dec. 24, 1969, 83 Stat. 396.)

PART B.—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 4041, 4084 of this title.

§ 4071. Federal operation of program; determination by Secretary; fiscal agents; report to the Congress.

(a) If at any time, after consultation with representatives of the insurance industry, the Secretary determines that operation of the flood insurance program as provided under part A cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for flood insurance under this chapter (on a temporary or other basis) he shall promptly undertake any necessary arrangements to carry out the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance coverage, either—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance ad-

justment organizations, as fiscal agents of the United States,

(2) officers and employees of the Department of Housing and Urban Development, and such other officers and employees of any executive agency (as defined in section 105 of Title 5) as the Secretary and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2).

(b) Upon making the determination referred to in subsection (a) of this section, and at least thirty days prior to implementing the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, the Secretary shall make a report to the Congress and such report shall—

(1) state the reasons for such determination,

(2) be supported by pertinent findings,

(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in provding flood insurance coverage under the program, and

(4) contain such recommendations as the Secretary deems advisable.

(Pub. L. 90–448, title XIII, § 1340, Aug. 1, 1968, 82 Stat. 584.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4017, 4041, 4072 of this title.

§ 4072. Adjustment and payment of claims; judicial review; limitations; jurisdiction.

In the event the program is carried out as provided in section 4071 of this title, the Secretary shall be authorized to adjust and make payment of any claims for proved and approved losses covered by flood insurance, and upon the disallowance by the Secretary of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance by the Secretary, may institute an action against the Secretary on such claim in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy. (Pub. L. 90–448, title XIII, § 1341, Aug. 1, 1968, 82 Stat. 584.)

PART C.—GENERAL PROVISIONS

§ 4081. Services by insurance industry; contracts, agreements, or other arrangements.

(a) In administering the flood insurance program under this subchapter, the Secretary is authorized to enter into any contracts, agreements, or other appropriate arrangements which may, from time to time, be necessary for the purpose of utilizing, on such terms and conditions as may be agreed upon, the facilities and services of any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations; and such contracts, agreements, or arrangements may include provision for payment of applicable operating costs and allowances for such facilities and services as set forth in the schedules prescribed under section 4018 of this title.

(b) Any such contracts, agreements, or other arrangements may be entered into without regard to the provisions of section 5 of Title 41 or any other provision of law requiring competitive bidding. (Pub. L. 90–448, title XIII, § 1345, Aug. 1, 1968, 82 Stat. 585.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4056 of this title.

§ 4082. Use of insurance pool, companies, or other private organizations for certain payments.

(a) Authorization to enter into contracts for certain responsibilities.

In order to provide for maximum efficiency in the administration of the flood insurance program and in order to facilitate the expeditious payment of any Federal funds under such program, the Secretary may enter into contracts with pool formed or otherwise created under section 4051 of this title, or any insurance company or other private organization, for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

(1) estimating and later determining any amounts of payments to be made;

(2) receiving from the Secretary, disbursing, and accounting for funds in making such payments;

(3) making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made; and

(4) otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

(b) Terms and conditions of contract.

Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Secretary determines are incidental to carrying out such responsibilities which are covered by the contract.

(c) Competitive bidding.

Any contract entered into under subsection (a) of this section may be entered into without regard to section 5 of Title 41 or any other provision of law requiring competitive bidding.

(d) Findings of Secretary.

No contract may be entered into under this section unless the Secretary finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(e) Bond; liability of certifying officers and disbursing officers.

(1) Any such contract may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(2) No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this section.

(3) No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated to certify payments as provided in paragraph (2) of this subsection.

(f) Term of contract; renewals; termination.

Any contract entered into under this section shall be for a term of one year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if he finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the flood insurance program authorized under this chapter. (Pub. L. 90–448, title XIII, § 1346, Aug. 1, 1968, 82 Stat. 585.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4056 of this title.

§ 4083. Settlement of claims; arbitration.

(a) The Secretary is authorized to make final settlement of any claims or demands which may arise as a result of any financial transactions which he is authorized to carry out under this subchapter, and may, to assist him in making any such settlement, refer any disputes relating to such claims or demands to arbitration, with the consent of the parties concerned.

(b) Such arbitration shall be advisory in nature, and any award, decision, or recommendation which may be made shall become final only upon the approval of the Secretary. (Pub. L. 90–448, title XIII, § 1347, Aug. 1, 1968, 82 Stat. 586.)

§ 4084. Records and audits.

(a) The flood insurance pool formed or otherwise created under part A of this subchapter, and any insurance company or other private organization executing any contract, agreement, or other appropriate arrangement with the Secretary under part B of this subchapter or this part, shall keep such records as the Secretary shall prescribe, including records which fully disclose the total costs of the program undertaken or the services being rendered, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the pool and any such insurance company or other private organization that are pertinent to the costs of the program undertaken or the services being rendered. (Pub. L. 90–448, title XIII, § 1348, Aug. 1, 1968, 82 Stat. 586.)

SUBCHAPTER III.—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

§ 4101. Identification of flood-prone areas; publication of information; establishment of flood-risk zones; estimates of flood-caused loss.

The Secretary is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Interior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

(1) identify and publish information with respect to all flood plain areas, including coastal areas located in the United States, which have special flood hazards, within five years following August 1, 1968, and

(2) establish flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas, within fifteen years following such date.

(Pub. L. 90–448, title XIII, § 1360, Aug. 1, 1968, 82 Stat. 587.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4015 of this title.

§ 4102. Criteria for land management and use.

(a) Studies and investigations.

The Secretary is authorized to carry out studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention, and may enter into any contracts, agreements, or other appropriate arrangements to carry out such authority.

(b) Extent of studies and investigations.

Such studies and investigations shall include, but not be limited to, laws, regulations, or ordinances relating to encroachments and obstructions on stream channels and floodways, the orderly development and use of flood plains of rivers or streams, floodway encroachment lines, and flood plain zoning, building codes, building permits, and subdivision or other building restrictions.

(c) Development of comprehensive criteria designed to encourage adoption of adequate State and local measures.

On the basis of such studies and investigations, and such other information as he deems necessary,

the Secretary shall from time to time develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

(1) constrict the development of land which is exposed to flood damage where appropriate,

(2) guide the development of proposed construction away from locations which are threatened by flood hazards,

(3) assist in reducing damage caused by floods, and

(4) otherwise improve the long-range land management and use of flood-prone areas,

and he shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures. (Pub. L. 90–448, title XIII, § 1361, Aug. 1, 1968, 82 Stat. 587; Pub. L. 91–152, title IV, § 410(c), Dec. 24, 1969, 83 Stat. 397.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91–152 substituted provisions requiring the development of criteria designed to encourage the adoption of adequate State and local measures, for provisions requiring the development of criteria designed to encourage the adoption of permanent State and local measures.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4012, 4022 of this title.

§ 4103. Purchase of insured properties damaged substantially beyond repair by flood.

The Secretary may, when he determines that the public interest would be served thereby, enter into negotiations with any owner of real property or interest therein which—

(1) was located in any flood-risk area, as determined by the Secretary,

(2) was covered by flood insurance under the flood insurance program authorized under this chapter, and

(3) was damaged substantially beyond repair by flood while so covered,

and may purchase such property or interests therein, for subsequent transfer, by sale, lease, donation, or otherwise, to any State or local agency which enters into an agreement with the Secretary that such property shall, for a period not less than forty years following transfer, be used for only such purposes as the Secretary may, by regulation, determine to be consistent with sound land management and use in such area. (Pub. L. 90–448, title XIII, § 1362, Aug. 1, 1968, 82 Stat. 588.)

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 4121. Definitions.

(a) As used in this chapter—

(1) the term "flood" shall have such meaning as may be prescribed in regulations of the Secretary, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;

(2) the terms "United States" (when used in a geographic sense) and "State" includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

(3) the terms "insurance company", "other insurer" and "insurance agent or broker" include any organizations and persons authorized to engage in the insurance business under the laws of any State;

(4) the term "insurance adjustment organization" includes any organizations and persons engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer;

(5) the term "person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof; and

(6) the term "Secretary" means the Secretary of Housing and Urban Development.

(b) The term "flood" shall also include inundation from mudslides which are caused by accumulations of water on or under the ground; and all of the provisions of this chapter shall apply with respect to such mudslides in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such mudslides) the purposes of this chapter and the objectives of the program. (Pub. L. 90–448, title XIII, § 1370, Aug. 1, 1968, 82 Stat. 588; Pub. L. 91–152, title IV, § 409(b), Dec. 24, 1969, 83 Stat. 397.)

AMENDMENTS

1969—Pub. L. 91–152 designated existing provisions as subsec. (a) and added subsec. (b).

§ 4122. Studies of other natural disasters; cooperation and consultation with other departments and agencies.

(a) The Secretary is authorized to undertake such studies as may be necessary for the purpose of determining the extent to which insurance protection against earthquakes or any other natural disaster perils, other than flood, is not available from public or private sources, and the feasibility of such insurance protection being made available.

(b) Studies under this section shall be carried out, to the maximum extent practicable, with the cooperation of other Federal departments and agencies and State and local agencies, and the Secretary is authorized to consult with, receive information from, and enter into any necessary agreements or other arrangements with such other Federal departments and agencies (on a reimbursement basis) and such State and local agencies. (Pub. L. 90–448, title XIII, § 1371, Aug. 1, 1968, 82 Stat. 588.)

§ 4123. Advance payments.

Any payments under this chapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance

or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine. (Pub. L. 90–448, title XIII, § 1372, Aug. 1, 1968, 82 Stat. 589.)

§ 4124. Applicability of Government Corporation Control Act.

The provisions of the Government Corporation Control Act shall apply to the program authorized under this chapter to the same extent as they apply to wholly owned Government corporations. (Pub. L. 90–448, title XIII, § 1373, Aug. 1, 1968, 82 Stat. 589.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in text, is classified to chapter 14 of Title 31, Money and Finance.

§ 4125. Finality of certain financial transactions.

Notwithstanding the provisions of any other law—

(1) any financial transaction authorized to be carried out under this chapter, and

(2) any payment authorized to be made or to be received in connection with any such financial transaction,

shall be final and conclusive upon all officers of the Government. (Pub. L. 90–448, title XIII, § 1374, Aug. 1, 1968, 82 Stat. 589.)

§ 4126. Administrative expenses.

Any administrative expenses which may be sustained by the Federal Government in carrying out the flood insurance program authorized under this chapter may be paid out of appropriated funds. (Pub. L. 90–448, title XIII, § 1375, Aug. 1, 1968, 82 Stat. 589.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4017 of this title.

§ 4127. Authorization of appropriations; availability.

(a) There are hereby authorized to be appropriated such sums as may from time to time be necessary to carry out this chapter, including sums—

(1) to cover administrative expenses authorized under section 4126 of this title;

(2) to reimburse the National Flood Insurance Fund established under section 4017 of this title for—

(A) premium equalization payments under section 4054 of this title which have been made from such fund; and

(B) reinsurance claims paid under the excess loss reinsurance coverage provided under section 4055 of this title; and

(3) to make such other payments as may be necessary to carry out the purposes of this chapter.

(b) All such funds shall be available without fiscal year limitation. (Pub. L. 90–448, title XIII, § 1376, Aug. 1, 1968, 82 Stat. 589.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4017 of this title.

Chapter 51.—DESIGN AND CONSTRUCTION OF PUBLIC BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Sec.
4151. Definitions.
4152. Standards for design, construction, and alteration of buildings; Secretary of Health, Education, and Welfare.
4153. Same; Secretary of Housing and Urban Development.
4154. Same; Secretary of Defense.
4155. Effective date of standards.
4156. Waiver and modification of standards.

§ 4151. Definitions.

As used in this chapter, the term "building" means any building or facility (other than (A) a privately owned residential structure and (B) any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel) the intended use for which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is—

(1) to be constructed or altered by or on behalf of the United States;

(2) to be leased in whole or in part by the United States after August 12, 1968, after construction or alteration in accordance with plans and specifications of the United States;

(3) to be financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan; or

(4) to be constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact.

(Pub. L. 90–480, § 1, Aug. 12, 1968, 82 Stat. 718; Pub. L. 91–205, Mar. 5, 1970, 84 Stat. 49.)

REFERENCES IN TEXT

The National Capital Transportation Act of 1960, referred to in par (4), is Pub. L. 86–669, July 14, 1960, 74 Stat. 537, which was formerly classified to section 651 et seq. of Title 40, Public Buildings, Property, and Works, was repealed by Pub. L. 91–143, § 8(a)(1), Dec. 9, 1969, 83 Stat. 322. See, now, provisions of the Washington Metropolitan Area Transit Regulation Compact, set out under D.C. Code §§ 1–1410, 1–1431.

The National Capital Transportation Act of 1965, referred to in par. (4), is Pub. L. 89–173, Sept. 8, 1965, 79 Stat. 663, which was formerly classified to section 681 et seq. of Title 40.

Former sections 681, 684, and 685 are now covered in the District of Columbia Code §§ 1–1421 and 1–1424, and the Washington Metropolitan Area Transit Authority Compact, set out under §§ 1–1410, 1–1431. Former sections 682, 683, were repealed by Pub. L. 91–143, § 8(a)(2), Dec. 9, 1969, 83 Stat. 323. See, now, provisions of the Compact.

AMENDMENTS

1970—Par. (4). Pub. L. 91–205 added par. (4).

§ 4152. Standards for design, construction, and alteration of buildings; Secretary of Health, Education, and Welfare.

The Administrator of General Services, in consultation with the Secretary of Health, Education,

and Welfare, is authorized to prescribe such standards for the design, construction, and alteration of buildings (other than residential structures subject to this chapter and buildings, structures, and facilities of the Department of Defense subject to this chapter) as may be necessary to insure that physically handicapped persons will have ready access to, and use of, such buildings. (Pub. L. 90–480, § 2, Aug. 12, 1968, 82 Stat. 719.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4153. Same; Secretary of Housing and Urban Development.

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, is authorized to prescribe such standards for the design, construction, and alteration of buildings which are residential structures subject to this chapter as may be necessary to insure that physically handicapped persons will have ready access to, and use of, such buildings. (Pub. L. 90–480, § 3, Aug. 12, 1968, 82 Stat. 719.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4154. Same; Secretary of Defense.

The Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is authorized to prescribe such standards for the design, construction, and alteration of buildings, structures, and facilities of the Department of Defense subject to this chapter as may be necessary to insure that physically handicapped persons will have ready access to, and use of, such buildings. (Pub. L. 90–480, § 4, Aug. 12, 1968, 82 Stat. 719.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4156 of this title.

§ 4155. Effective date of standards.

Every building designed, constructed, or altered after the effective date of a standard issued under this chapter which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard. (Pub. L. 90–480, § 5, Aug. 12, 1968, 82 Stat. 719.)

§ 4156. Waiver and modification of standards.

The Administrator of General Services, with respect to standards issued under section 4152 of this title, and the Secretary of Housing and Urban Development, with respect to standards issued under section 4153 of this title, and the Secretary of Defense with respect to standards issued under section 4154 of this title, is authorized—

(1) to modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned, and upon a determination by the Administrator or Secretary, as the case may be, that such modification or waiver is clearly necessary, and

(2) to conduct such surveys and investigations as he deems necessary to insure compliance with such standards.

(Pub. L. 90–480, § 6, Aug. 12, 1968, 82 Stat 719.)

Chapter 52.—INTERGOVERNMENTAL COOPERATION

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Sec.
4201. Definitions.

SUBCHAPTER II.—GRANTS-IN-AID TO THE STATES; IMPROVED ADMINISTRATION

4211. Full information on funds received.
4212. Deposit of grants-in-aid.
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SUBCHAPTER III.—SPECIAL OR TECHNICAL SERVICES PROVIDED FOR STATE AND LOCAL UNITS OF GOVERNMENT BY FEDERAL DEPARTMENTS AND AGENCIES

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4242. Studies by Comptroller General of Federal grant-in-aid programs; reports to Congress.
4243. Studies by Advisory Commission on Intergovernmental Relations; report to Congress.
4244. Preservation of House and Senate committee jurisdiction.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 38 section 1820.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 4201. Definitions.

When used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government and any wholly owned Government corporation.

(2) The term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

(3) The term "political subdivision" or "local government" means a local unit of government, including specifically a county, municipality, city, town, township, or a school or other special district created by or pursuant to State law.

(4) "Unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(5) "Special-purpose unit of local government" means any special district, public-purpose corporation, or other strictly limited-purpose political subdivision of a State, but shall not include a school district.

(6) The term "grant" or "grant-in-aid" means money, or property provided in lieu of money, paid

or furnished by the United States under a fixed annual or aggregate authorization—

(A) to a State; or

(B) to a political subdivision of a State; or

(C) to a beneficiary under a plan or program, administered by a State or a political subdivision of a State, which is subject to approval by a Federal agency;

if such authorization either (i) requires the States or political subdivisions to expend non-Federal funds as a condition for the receipt of money or property from the United States; or (ii) specifies directly, or establishes by means of a formula, the amounts which may be paid or furnished to States or political subdivisions, or the amounts to be allotted for use in each of the States by the States, political subdivisions, or other beneficiaries. The term also includes money, or property provided in lieu of money, paid and furnished by the United States to any community action agency under the Economic Opportunity Act of 1964, as amended. The term does not include (1) shared revenues; (2) payments of taxes; (3) payments in lieu of taxes; (4) loans or repayable advances; (5) surplus property or surplus agricultural commodities furnished as such; (6) payments under research and development contracts or grants which are awarded directly and on similar terms to all qualifying organizations, whether public or private; or (7) payments to States or political subdivisions as full reimbursement for the costs incurred in paying benefits or furnishing services to persons entitled thereto under Federal laws.

(7) The term "Federal assistance", "Federal financial assistance", "Federal assistance programs", or "federally assisted programs", means programs that provide assistance through grant or contractual arrangements, and includes technical assistance programs or programs providing assistance in the form of loans, loan guarantees, or insurance. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code secs. 47–2501a and 47–2501b).

(8) "Specialized or technical services" means statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and any other similar service functions which any department or agency of the executive branch of the Federal Government is especially equipped and authorized by law to perform.

(9) "Comprehensive planning" includes the following, to the extent directly related to area needs or needs of a unit of general local government: (A) preparation, as a guide for governmental policies and action, of general plans with respect to (i) the pattern and intensity of land use, (ii) the provision of public facilities (including transportation facilities) and other government services, and (iii) the effective development and utilization of human and natural resources; (B) long-range physical and fiscal plans for such action; (C) programing of capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financing plans for such expenditures in the earlier years of the program; (D) coordination of all related plans and activities of the State and local governments and agencies concerned; and (E) preparation of regulatory and administrative measures in support of the foregoing.

(10) The term "head of a Federal agency" or "head of a State agency" includes a duly designated delegate of such agency head. (Pub. L. 90–577, title I, §§ 101—110, Oct. 16, 1968, 82 Stat. 1098—1101.)

REFERENCES IN TEXT

"This chapter", referred to in the introductory text, read in the original "this Act", meaning Pub. L. 90–577, which is classified to this chapter and sections 531–535 of Title 40, Public Buildings, Property and Works.

The Economic Opportunity Act of 1964, as amended, referred to in subd. (6), is classified to chapter 34 of this title.

CODIFICATION

Section is comprised of sections 101–110 of Pub. L. 90–577, constituting subds. (1)—(10), respectively, of this section.

SHORT TITLE

Section 1 of Pub. L. 90–577 provided: "That this Act [which enacted this chapter and sections 531–535 of Title 40, Public Buildings, Property, and Works] be cited as the 'Intergovernmental Cooperation Act of 1968'."

SUBCHAPTER II.—GRANTS-IN-AID TO THE STATES; IMPROVED ADMINISTRATION

§ 4211. Full information on funds received.

Any department or agency of the United States Government which administers a program of grants-in-aid to any of the State governments of the United States or to their political subdivisions shall, upon request, notify in writing the Governor, the State legislature, or other official designated by either, of the purpose and amounts of actual grants-in-aid to the State or to its political subdivisions. In each instance, a copy of requested information shall be furnished the State legislature or the Governor depending upon the original request for such data. (Pub. L. 90–577, title II, § 201, Oct. 16, 1968, 82 Stat. 1101.)

§ 4212. Deposit of grants-in-aid.

No grant-in-aid to a State shall be required by Federal law or administrative regulation to be deposited in a separate bank account apart from other funds administered by the State. All Federal grant-in-aid funds made available to the States shall be properly accounted for as Federal funds in the accounts of the State. In each case the State agency concerned shall render regular authenticated reports to the appropriate Federal agency covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by said Federal agency. The head of the Federal agency and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to the grant-in-aid received by the States. (Pub. L. 90–577, title II, § 202, Oct. 16, 1968, 82 Stat. 1101.)

§ 4213. Scheduling of Federal transfers to the States.

Heads of Federal departments and agencies responsible for administering grant-in-aid programs shall schedule the transfer of grant-in-aid funds

consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by a State, whether such disbursement occurs prior to or subsequent to such transfer of funds, or subsequent to such transfer of funds.[1] States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes. (Pub. L. 90–577, title II, § 203, Oct. 16, 1968, 82 Stat. 1101.)

§ 4214. Eligible State agency.

Notwithstanding any other Federal law which provides that a single State agency or multimember board or commission must be established or designated to administer or supervise the administration of any grant-in-aid program, the head of any Federal department or agency administering such program may, upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, waive the single State agency or multimember board or commission provision upon adequate showing that such provision prevents the establishment of the most effective and efficient organizational arrangements within the State government and approve other State administrative structure or arrangements: *Provided,* That the head of the Federal department or agency determines that the objectives of the Federal statute authorizing the grant-in-aid program will not be endangered by the use of such other State structure or arrangements. (Pub. L. 90–577, title II, § 204, Oct. 16, 1968, 82 Stat. 1101.)

SUBCHAPTER III.—SPECIAL OR TECHNICAL SERVICES PROVIDED FOR STATE AND LOCAL UNITS OF GOVERNMENT BY FEDERAL DEPARTMENTS AND AGENCIES

§ 4221. Statement of purpose.

It is the purpose of this subchapter to encourage intergovernmental cooperation in the conduct of specialized or technical services and provision of facilities essential to the administration of State or local governmental activities, many of which are nationwide in scope and financed in part by Federal funds; to enable State or local governments to avoid unnecessary duplication of special service functions; and to authorize all departments and agencies of the executive branch of the Federal Government which do not have such authority to provide reimbursable specialized or technical services to State and local governments. (Pub. L. 90–577, title III, § 301, Oct. 16, 1968, 82 Stat. 1102.)

§ 4222. Authority to provide service.

The head of any Federal department or agency is authorized within his discretion, upon written request from a State or political subdivision thereof, to provide specialized or technical services, upon payment, to the department or agency by the unit of government making the request, of salaries and all other identifiable direct or indirect costs of performing such services: *Provided, however,* That such services shall include only those which the Director of the Office of Management and Budget through rules and regulations determines Federal departments and agencies have special competence to provide. Such rules and regulations shall be consistent with and in furtherance of the Government's policy of relying on the private enterprise system to provide those services which are reasonably and expeditiously available through ordinary business channels. (Pub. L. 90–577, title III, § 302, Oct. 16, 1968, 82 Stat. 1102; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —)

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4223 of this title.

§ 4223. Reimbursement of appropriation.

All moneys received by any department or agency of the executive branch of the Federal Government, or any bureau or other administrative division thereof, in payment for furnishing specialized or technical services as authorized under section 4222 of this title shall be deposited to the credit of the principal appropriation from which the cost of providing such services has been paid or is to be charged. (Pub. L. 90–577, title III, § 303, Oct. 16, 1968, 82 Stat. 1102.)

§ 4224. Reports to Congress.

The Secretary of any department or the administrative head of any agency of the executive branch of the Federal Government shall furnish annually to the respective Committees on Government Operations of the Senate and House of Representatives a summary report on the scope of the services provided under the administration of this subchapter. (Pub. L. 90–577, title III, § 304, Oct. 16, 1968, 82 Stat. 1102.)

§ 4225. Reservation of existing authority.

This subchapter is in addition to and does not supersede any existing authority now possessed by any Federal department or agency with respect to furnishing services, whether on a reimbursable or nonreimbursable basis, to State and local units of government. (Pub. L. 90–577, title III, § 305, Oct. 16, 1968, 82 Stat. 1103.)

SUBCHAPTER IV.—DEVELOPMENT ASSISTANCE PROGRAMS; COORDINATED INTERGOVERNMENTAL POLICY AND ADMINISTRATION

§ 4231. Declaration of development assistance policy.

(a) The economic and social development of the Nation and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural. Moreover, in a time of rapid urbanization, the sound and

[1] So in original.

orderly development of urban communities depends to a large degree upon the social and economic health and the sound development of smaller communities and rural areas. The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

(b) All viewpoints—national, regional, State, and local—shall, to the extent possible, be fully considered and taken into account in planning Federal or federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a framework of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(c) To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(d) Each Federal department and agency administering a development assistance program shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

(e) Insofar as possible, systematic planning required by individual Federal programs (such as highway constuction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning. (Pub. L. 90–577, title IV, § 401, Oct. 16, 1968, 82 Stat. 1103.)

§ 4232. Favoring units of general local government.

Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to units of general local government rather than to special-purpose units of local government. (Pub. L. 90–577, title IV, § 402, Oct. 16, 1968, 82 Stat. 1104.)

§ 4233. Rules and regulations.

The Office of Management and Budget or such other agency as may be designated by the President is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this subchapter. (Pub. L. 90–577, title IV, § 403, Oct. 16, 1968, 82 Stat. 1104; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SUBCHAPTER V.—REVIEW OF FEDERAL GRANT-IN-AID PROGRAMS

§ 4241. Congressional review of grant-in-aid programs.

(a) Where any Act of Congress authorizes the making of grants-in-aid and no expiration date for such authority has been specified by law, then prior to the expiration of each period specified in subsection (b) of this section the Committees of the Senate and the House having legislative jurisdiction over such grants-in-aid shall, separately or jointly, conduct studies of the program under which such grants-in-aid are made and advise their respective Houses of the results of their findings with special attention to—

(1) The extent to which the purposes for which the grants-in-aid are authorized have been met;

(2) The extent to which the objectives of such programs can be carried on without further financial assistance from the United States;

(3) Whether or not any changes in purpose, direction or administration of the original program, or in procedures and requirements applicable thereto, shall be made; and

(4) The extent to which such grant-in-aid programs are adequate to meet the growing and changing needs which they were designed to support.

(b) (1) A study of a grant-in-aid program to which subsection (a) of this section applies and

which is authorized by an Act of Congress enacted before October 16, 1968, shall be conducted prior to the expiration of the fourth calendar year beginning after October 16, 1968, and thereafter prior to the expiration of the fourth calendar year following the year during which a study of such program was last conducted under this paragraph.

(2) A study of a grant-in-aid program to which subsection (a) of this section applies and which is authorized by an Act of Congress enacted after October 16, 1968, shall be conducted prior to the expiration of the fourth calendar year following the year of enactment of such Act, and prior to the expiration of each fourth calendar year thereafter. (Pub. L. 90–577, title VI, § 601, Oct. 16, 1968, 82 Stat. 1106.)

§ 4242. Studies by Comptroller General of Federal grant-in-aid programs; reports to Congress.

(a) Upon request of any committee having jurisdiction over a grant-in-aid program, the Comptroller General shall make a study of such program to determine among other relevant matters, the extent to which—

(1) such program conflicts with or duplicates other grant-in-aid programs; and

(2) more effective, efficient, economical, and uniform administration of such program can be achieved by changing certain requirements and procedures applicable thereto.

(b) In reviewing grant-in-aid programs the Comptroller General shall consider, among other relevant matters, and the budgetary, accounting, reporting and administrative procedures applicable to such programs. Reports on such studies, together with recommendations, shall be submitted by the Comptroller General to the Congress. Reports on expiring programs should, to the extent practicable, be submitted in the year prior to the date set for their expiration. (Pub. L. 90–577, title VI, § 602, Oct. 16, 1968, 82 Stat. 1107.)

§ 4243. Studies by Advisory Commission on Intergovernmental Relations; report to Congress.

Upon request of any committee having jurisdiction over a grant-in-aid program, the Advisory Commission on Intergovernmental Relations (established by Public Law 86–380, as amended) shall conduct studies of the intergovernmental relations aspects of such program including (1) the impact of such program, if any, on the structural organization of State and local governments and on Federal-State-local fiscal relations, and (2) the coordination of Federal administration of such program with State and local administration thereof, and shall report its findings and recommendations to such committee and to the Congress. (Pub. L. 90–577, title VI, § 603, Oct. 16, 1968, 82 Stat. 1107.)

REFERENCES IN TEXT

Public Law 86–380, as amended, referred to in the text, is classified to chapter 53 of this title.

§ 4244. Preservation of House and Senate committee jurisdiction.

Nothing in this chapter shall be construed to affect the jurisdiction of committees under the rules of the Senate and the House of Representatives. (Pub. L. 90–577, title VI, § 604, Oct. 16, 1968, 82 Stat. 1107.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 90–577, which is classified to this chapter and sections 531—535 of Title 40, Public Buildings, Property and Works.

Chapter 53.—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Sec.
4271. Establishment.
4272. Declaration of purpose.
4273. Membership of the Commission; appointment of members; term.
4274. Organization of the Commission.
(a) Initial meeting.
(b) Chairman and Vice Chairman.
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(d) Termination of service in official position from which originally appointed.
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4276. Powers and administrative provisions.
(a) Hearings; oaths and affirmations.
(b) Cooperation by Federal agencies.
(c) Executive director.
(d) Appointment and compensation of other personnel; temporary and intermittent services.
(e) Applicability of other laws to employees.
(f) Maximum compensation of employees.
4277. Compensation of members.
4278. Authorization of appropriations.
4279. Receipt of funds; consideration by Congress.

§ 4271. Establishment.

There is established a permanent bipartisan commission to be known as the Advisory Commission on Intergovernmental Relations, hereinafter referred to as the "Commission". (Pub. L. 86–380, § 1, Sept. 24, 1959, 73 Stat. 703.)

EX. ORD. NO. 11455. OFFICE OF INTERGOVERNMENTAL RELATIONS

Ex. Ord. No. 11455, Feb. 14, 1969, 34 F.R. 2299, provided: By virtue of the authority vested in me by the Constitution and the statutes of the United States, and as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of the Office.* (a) There is hereby established the Office of Intergovernmental Relations (hereinafter referred to as "the Office"). The Office shall be under the immediate supervision of the Vice President of the United States.

(b) In addition to his other duties, the Vice President shall act as the President's liaison with executive and legislative officials of State and local governments; encourage and assist in facilitating maximum cooperation between and among the various Federal agencies and such other governments; help to make the Federal executive branch, especially those sectors thereof having a direct impact on intergovernmental relations, more sensitive, receptive and responsive to the views of State and local officials; serve as the focal point of efforts by Federal departments, agencies, and interagency councils and committees to resolve specific difficulties that arise in their relationships with such officials; work closely with and encourage the work of the Advisory Commission on Intergovernmental Relations; and inform the Council for Urban Affairs [now the Domestic Council] on general intergovernmental issues of an informational, administrative, or program nature so that the Council may more effectively advise and assist the President with respect to urban affairs.

SEC. 2. *Functions of the Office.* The Office shall advise and assist the Vice President with respect to (1) intergovernmental relations generally, and (2) the responsibilities assigned to the Vice President specifically under section 1(b). In addition, the Office shall:

(a) serve as the clearinghouse for the prompt handling and solution of Federal-State-local problems brought to the attention of the President or Vice President by executive and legislative officers of State and local governments;

(b) identify and report to the Vice President on recurring intergovernmental problems of a Federal interdepartmental and interprogram nature;

(c) explore and report to the Vice President on ways and means of strengthening the headquarters and interagency relationships of Federal field offices as they relate to intergovernmental activities;

(d) maintain continuing liaison with intergovernmental units in Federal departments and agencies and with the staff of the Council for Urban Affairs [now the Domestic Council], and provide the staff of the Council with information and assistance regarding issues arising in Federal-State-local relations; and

(e) review procedures utilized by Federal executive agencies for affording State and local officials an opportunity to confer and comment on Federal assistance programs and other intergovernmental issues, and propose methods of strengthening such procedures.

SEC. 3. *Administrative Arrangements.* (a) A person designated by the Vice President shall serve as Director of the Office. The Director shall perform such duties as the Vice President may from time to time direct.

(b) A person designated by the Vice President shall serve as Deputy Director of the Office and assist the Director in performing those duties assigned to him.

(c) All Federal departments, agencies, interagency councils and committees having an impact on intergovernmental relations, and all Federal Executive Boards, shall extend full cooperation and assistance to the Vice President and the Director of the Office in carrying out their responsibilities under this order. The Director shall, upon request, assist all Federal departments and agencies with problems that may arise between them and the executive agencies or elected officials of State and local governments.

(d) The head of each Federal department and agency shall designate an appropriate official with broad general experience in his department or agency to serve, upon request of the Vice President, as a point of contact in carrying out Federal-State-local liaison activities under this order.

SEC. 4. *Construction.* (a) Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

(b) This order supersedes Executive Order No. 11426 of August 31, 1968.

RICHARD NIXON.

OFFICE OF INTERGOVERNMENTAL RELATIONS; AUTHORIZATION OF APPROPRIATION; APPOINTMENT AND COMPENSATION OF PERSONNEL

Pub. L. 91-186, Dec. 30, 1969, 83 Stat. 849, provided:

"That there is hereby authorized to be appropriated such sums as may be necessary for expenses of the Office of Intergovernmental Relations (referred to hereafter as the 'Office'), established by Executive Order Number 11455 of February 14, 1969 [set out as a note under this section].

"Sec. 2. The Director of the Office shall be compensated at a rate of basic compensation not to exceed the rate now or hereafter provided for level IV of the Federal Executive Salary Schedule [section 5315 of Title 5, Government Organization and Employees].

"Sec. 3. The Director of the Office is authorized—

"(1) to appoint such personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services; and

"(2) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate now or hereafter provided for GS-18."

§ 4272. Declaration of purpose.

Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

It is intended that the Commission, in the performance of its duties, will—

(1) bring together representatives of the Federal, State, and local governments for the consideration of common problems;

(2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;

(3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;

(4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;

(5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;

(6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of government; and

(7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

(Pub. L. 86-380, § 2, Sept. 24, 1959, 73 Stat. 703.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4275 of this title.

§ 4273. Membership of the Commission; appointment of members; term.

(a) The Commission shall be composed of twenty-six members, as follows:

(1) Six appointed by the President of the United States, three of whom shall be officers of the executive branch of the Government, and three private citizens, all of whom shall have had experience or familiarity with relations between the levels of government;

(2) Three appointed by the President of the Senate, who shall be Members of the Senate;

(3) Three appointed by the Speaker of the House of Representatives, who shall be Members of the House;

(4) Four appointed by the President from a panel of at least eight Governors submitted by the Governors' Conference;

(5) Three appointed by the President from a panel of at least six members of State legislative bodies submitted by the board of managers of the Council of State Governments;

(6) Four appointed by the President from a panel of at least eight mayors submitted jointly by the National League of Cities and the United States Conference of Mayors; and

(7) Three appointed by the President from a panel of at least six elected county officers submitted by the National Association of Counties.

(b) The members appointed from private life under paragraph (1) of subsection (a) of this section shall be appointed without regard to political affiliation; of each class of members enumerated in paragraphs (2) and (3) of subsection (a) of this section, two shall be from the majority party of the respective houses; of each class of members enumerated in paragraphs (4), (5), (6), and (7) of subsection (a) of this section, not more than two shall be from any one political party; of each class of members enumerated in paragraphs (5), (6) and (7) of subsection (a) of this section, not more than one shall be from any one State; at least two of the appointees under paragraph (6) of subsection (a) of this section shall be from cities under five hundred thousand population.

(c) The term of office of each member of the Commission shall be two years; members shall be eligible for reappointment; and, except as provided in section 4274(d) of this title, members shall serve until their successors are appointed. (Pub. L. 86–380, §3, Sept. 24, 1959, 73 Stat. 704; Pub. L. 89–733, §§ 1, 2, Nov. 2, 1966, 80 Stat. 1162.)

AMENDMENTS

1966—Subsec. (a)(6). Pub. L. 89–733, § 1, substituted "National League of Cities" for "American Municipal Association."

Subsec. (a)(7). Pub. L. 89–733, § 1, substituted "National Association of Counties" for "National Association of County Officials."

Subsec. (c). Pub. L. 89–733, § 2, inserted provision that members shall serve until their successors are appointed, except as provided in section 4274(d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4274 of this title.

§ 4274. Organization of the Commission.

(a) Initial meeting.

The President shall convene the Commission within ninety days following September 24, 1959 at such time and place as he may designate for the Commission's initial meeting.

(b) Chairman and Vice Chairman.

The President shall designate a Chairman and a Vice Chairman from among members of the Commission.

(c) Vacancies in membership.

Any vacancy in the membership of the Commission shall be filled in the same manner in which the original appointment was made; except that where the number of vacancies is fewer than the number of members specified in paragraphs (4), (5), (6), and (7) of section 4273(a) of this title, each panel of names submitted in accordance with the aforementioned paragraphs shall contain at least two names for each vacancy.

(d) Termination of service in official position from which originally appointed.

Where any member ceases to serve in the official position from which originally appointed under section 4273(a) of this title, his place on the Commission shall be deemed to be vacant.

(e) Quorum.

Thirteen members of the Commission shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings. (Pub. L. 86–380, § 4, Sept. 24, 1959, 73 Stat. 705.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4273 of this title.

§ 4275. Duties of the Commission.

It shall be the duty of the Commission—

(1) to engage in such activities and to make such studies and investigations as are necessary or desirable in the accomplishment of the purposes set forth in section 4272 of this title;

(2) to consider, on its own initiative, ways and means for fostering better relations between the levels of government;

(3) to submit an annual report to the President and the Congress on or before January 31 of each year. The Commission may also submit such additional reports to the President, to the Congress or any committee of the Congress, and to any unit of government or organization as the Commission may deem appropriate.

(Pub. L. 86–380, § 5, Sept. 24, 1959, 73 Stat. 705.)

§ 4276. Powers and administrative provisions.

(a) Hearings; oaths and affirmations.

The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this chapter, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(b) Cooperation by Federal agencies.

Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this chapter.

(c) Executive director.

The Commission shall have power to appoint, fix the compensation of, and remove an executive director without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5. Such appointment shall be made solely on the basis of fitness to perform the duties of the position and without regard to political affiliation.

(d) Appointment and compensation of other personnel; temporary and intermittent services.

Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5, and without

reference to political affiliation, shall have the power—

(1) to appoint, fix the compensation of, and remove such other personnel as he deems necessary,

(2) to procure temporary and intermittent services to the same extent as is authorized by section 15 of the Administrative Expenses Act of 1946 but at rates not to exceed $50 a day for individuals.

(e) Applicability of other laws to employees.

Except as otherwise provided in this chapter, persons in the employ of the Commission under subsections (c) and (d)(1) of this section shall be considered to be Federal employees for all purposes, including—

(1) the Civil Service Retirement Act, as amended,

(2) the Federal Employees' Group Life Insurance Act of 1954, as amended,

(3) annual and sick leave, and

(4) the Travel Expense Act of 1949, as amended.

(f) Maximum compensation of employees.

No individual employed in the service of the Commission shall be paid compensation for such employment at a rate in excess of the highest rate provided for grade 18 under the General Schedule, except that the executive director of the Commission may be paid compensation at any rate not exceeding the rate prescribed for level V in the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964. (Pub. L. 86–380, § 6, Sept. 24, 1959, 73 Stat. 705; Pub. L. 88–426, title III, § 306(e), Aug. 14, 1964, 78 Stat. 429; Pub. L. 89–733, §§ 3, 4, Nov. 2, 1966, 80 Stat. 1162.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (c) and (d), are classified generally to Title 5, Government Organization and Employees.

Section 15 of the Administrative Expenses Act of 1946, referred to in subsec. (d), was repealed in the general revision of Title 5, and the provisions are now covered by section 3109 of Title 5.

The Civil Service Retirement Act, as amended, referred to in subsec. (e), was repealed in the general revision of Title 5, and the provisions are now covered by sections 1308, 3323 and 8331 et seq. of Title 5.

The Federal Employees' Group Life Insurance Act of 1954, as amended, referred to in subsec. (e), was repealed in the general revision of Title 5, and the provisions are now covered by sections 1308 and 8701 et seq. of Title 5.

The Travel Expense Act of 1949, as amended, referred to in subsec. (e), was repealed in the general revision of Title 5, and the provisions are now covered by sections 5701, 5702 and 5704–5708 of Title 5.

For grade 18 under the General Schedule, referred to in subsec. (f), see section 5332 of Title 5.

Level V in the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964, referred to in subsec. (f), is classified to section 5316 of Title 5.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89–733, § 3, substituted "executive director" for "staff director."

Subsec. (f). Pub. L. 89–733, § 4, authorized the executive director of the Commission to be paid compensation at any rate not exceeding the rate prescribed for level V in the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964.

1964—Subsec. (f). Pub. L. 88–426 substituted "at a rate in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "at a rate in excess of $20,000 per annum."

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426.

§ 4277. Compensation of members.

(a) Members of the Commission who are Members of Congress, officers of the executive branch of the Federal Government, Governors, or full-time salaried officers of city and county governments shall serve without compensation in addition to that received in their regular public employment, but shall be allowed necessary travel expenses (or, in the alternative, a per diem in lieu of subsistence and mileage not to exceed the rates prescribed in the Travel Expense Act of 1949, as amended), without regard to the Travel Expense Act of 1949, as amended, the Standardized Government Travel Regulations, or section 10 of the Act of March 3, 1933, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(b) Unless prohibited by State or local law, members of the Commission, other than those to whom subsection (a) of this section is applicable, shall receive compensation at the rate of $50 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission, as provided for in subsection (a) of this section. (Pub. L. 86–380, § 7, Sept. 24, 1959, 73 Stat. 706; Pub. L. 89–733, § 5, Nov. 2, 1966, 80 Stat. 1162.)

REFERENCES IN TEXT

The Travel Expense Act of 1949, as amended referred to in subsec. (a), was repealed in the general revision of Title 5, and the provisions are now covered by sections 5701, 5702, and 5704–5708 of Title 5, Government Organization and Employees.

Section 10 of the Act of March 3, 1933, referred to in subsec. (a), was repealed in the general revision of Title 5, and the provisions are now covered by section 5731 of Title 5.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–733 inserted phrase "Unless prohibited by State or local law."

§ 4278. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter. (Pub. L. 86–380, § 8, Sept. 24, 1959, 73 Stat. 706.)

§ 4279. Receipt of funds; consideration by Congress.

The Commission is authorized to receive funds through grants, contracts, and contributions from State and local governments and organizations thereof, and from nonprofit organizations. Such funds may be received and expended by the Commission only for purposes of this chapter. In making appropriations to the Commission the Congress shall consider the amount of any funds received by the Commission in addition to those funds appropriated to it by the Congress. (Pub. L. 86–380, § 9, as added Pub. L. 89–733, § 6, Nov. 2, 1966, 80 Stat. 1162.)

Chapter 54.—CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

Sec.
4301. Congressional declaration of purpose.
4302. Cabinet Committee on Opportunities for Spanish-Speaking People.
(a) Establishment.
(b) Composition of Committee; requisites for selection of Chairman; appointment of Chairman.
(c) Participation by other executive departments or agencies.
(d) Restriction on concurrent employment of Chairman; compensation; selection of alternate Chairman.
(e) Meetings.
4303. Functions of Committee; advice to governmental agencies; promulgation of studies and projects.
4304. Administrative powers of Committee.
(a) Rules and regulations.
(b) Coordination of activities with other Federal departments and agencies.
(c) Agreements with other Federal departments and agencies.
4305. Utilization of services and facilities of governmental agencies.
4306. Compensation of personnel; temporary transfers for duty with the Committee.
4307. Advisory Council on Spanish-Speaking Americans.
(a) Establishment; composition; requisites for selection to Council.
(b) Function of Council; designation of Chairman and Vice Chairman; compensation of personnel.
(c) Compensation of Council members; reimbursement of expenses.
4308. Impairment of existing powers of other Federal departments and agencies.
4309. Political activities of Committee and Advisory Council employees.
4310. Authorization of appropriations; availability of funds of Interagency Committee on Mexican-American Affairs.
4311. Annual report to President and Congress.
4312. Termination.

§ 4301. Congressional declaration of purpose.

It is the purpose of this chapter to assure that Federal programs are reaching all Mexican Americans, Puerto Rican Americans, Cuban Americans, and all other Spanish-speaking and Spanish surnamed Americans and providing the assistance they need, and to seek out new programs that may be necessary to handle problems that are unique to such persons. (Pub. L. 91–181, § 1, Dec. 30, 1969, 83 Stat. 838.)

§ 4302. Cabinet Committee on Opportunities for Spanish-Speaking People.

(a) Establishment.

There is hereby established the Cabinet Committee on Opportunities for Spanish-Speaking People (hereinafter referred to as the "Committee").

(b) Composition of Committee; requisites for selection of Chairman; appointment of Chairman.

The Committee shall be composed of—

(1) the Secretary of Agriculture;

(2) the Secretary of Commerce;

(3) the Secretary of Labor;

(4) the Secretary of Health, Education, and Welfare;

(5) the Secretary of Housing and Urban Development;

(6) the Secretary of the Treasury;

(7) the Attorney General;

(8) the Director of the Office of Economic Opportunity;

(9) the Administrator of the Small Business Administration;

(10) the Commissioner of the Equal Employment Opportunity Commission most concerned with the Spanish-speaking and Spanish-surnamed Americans;

(11) the Chairman of the Civil Service Commission; and

(12) the Chairman of the Committee, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are recognized for their knowledge of and familiarity with the special problems and needs of the Spanish speaking.

(c) Participation by other executive departments or agencies.

The Chairman may invite the participation in the activities of the Committee of any executive department or agency not represented on the Committee, when matters of interest to such executive department or agency are under consideration.

(d) Restriction on concurrent employment of Chairman; compensation; selection of alternate Chairman.

(1) The Chairman of the Committee shall not concurrently hold any other office or position of employment with the United States, but shall serve in a full-time capacity as the chief officer of the Committee.

(2) The Chairman of the Committee shall receive compensation at the rate prescribed for level V of the Executive Schedule by section 5316 of Title 5.

(3) The Chairman of the Committee shall designate one of the other Committee members to serve as acting Chairman during the absence or disability of the Chairman.

(e) Meetings.

The Committee shall meet at least quarterly during each year. (Pub. L. 91–181, § 2, Dec. 30, 1969, 83 Stat. 838.)

§ 4303. Functions of Committee; advice to governmental agencies; promulgation of studies and projects.

(a) The Committee shall have the following functions:

(1) to advise Federal departments and agencies regarding appropriate action to be taken to help assure that Federal programs are providing the assistance needed by Spanish-speaking and Spanish-surnamed Americans; and

(2) to advise Federal departments and agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Spanish-speaking and Spanish-surnamed Americans, and on priorities thereunder.

(b) In carrying out its functions, the Committee may foster such surveys, studies, research, and demonstration and technical assistance projects, establish such relationships with State and local governments and the private sector, and promote such participation of State and local governments and the private sector as may be appropriate to identify

and assist in solving the special problems of Spanish-speaking and Spanish-surnamed Americans. (Pub. L. 91–181, § 3, Dec. 30, 1969, 83 Stat. 838.)

§ 4304. Administrative powers of Committee.

(a) Rules and regulations.

The Committee is authorized to prescribe rules and regulations as may be necessary to carry out the provisions of this chapter.

(b) Coordination of activities with other Federal departments and agencies.

The Committee shall consult with and coordinate its activities with appropriate Federal departments and agencies and shall utilize the facilities and resources of such departments and agencies to the maximum extent possible in carrying out its functions.

(c) Agreements with other Federal departments and agencies.

The Committee is authorized in carrying out its functions to enter into agreements with Federal departments and agencies as appropriate. (Pub. L. 91–181, § 4, Dec. 30, 1969, 83 Stat. 839.)

§ 4305. Utilization of services and facilities of governmental agencies.

The Committee is authorized to request directly from any Federal department or agency any information it deems necessary to carry out its functions under this chapter, and to utilize the services and facilities of such department or agency; and each Federal department or agency is authorized to furnish such information, services, and facilities to the Committee upon request of the Chairman to the extent permitted by law and within the limits of available funds. (Pub. L. 91–181, § 5, Dec. 30, 1969, 83 Stat. 839.)

§ 4306. Compensation of personnel; temporary transfers for duty with the Committee.

(a) The Chairman shall appoint and fix the compensation of such personnel as may be necessary to carry out the functions of the Committee and may obtain the services of experts and consultants in accordance with section 3109 of Title 5 at rates for individuals not in excess of the daily equivalent paid for positions under GS–18 of the General Schedule under section 5332 of Title 5.

(b) Federal departments and agencies, in their discretion, may detail to temporary duty with the Committee such personnel as the Chairman may request for carrying out the functions of the Committee, each such detail to be without loss of seniority, pay, or other employee status. (Pub. L. 91–181, § 6, Dec. 30, 1969, 83 Stat. 839.)

§ 4307. Advisory Council on Spanish-Speaking Americans.

(a) Establishment; composition; requisites for selection to Council.

There is established an Advisory Council on Spanish-speaking Americans (hereinafter referred to as the Advisory Council) composed of nine members appointed by the President from among individuals who are representative of the Mexican American, Puerto Rican American, Cuban American, and other elements of the Spanish-speaking and Spanish-surnamed community in the United States. In making such appointments the President shall give due consideration to any recommendations submitted by the Committee.

(b) Function of Council; designation of Chairman and Vice Chairman; compensation of personnel.

The Advisory Council shall advise the Committee with respect to such matters as the Chairman of the Committee may request. The President shall designate the Chairman and Vice Chairman of the Advisory Council. The Advisory Council is authorized to—

(1) appoint and fix the compensation of such personnel, and

(2) obtain the services of such experts and consultants in accordance with section 3109 of Title 5, at rates for individuals not in excess of the daily equivalent paid for positions under GS–18 of the General Schedule under section 5302[1] of Title 5, as may be necessary to carry out its functions.

(c) Compensation of Council members; reimbursement of expenses.

Each member of the Advisory Council who is appointed from private life shall receive $100 a day for each day during which he is engaged in the actual performance of his duties as a member of the Council. A member of the Council who is an officer or employee of the Federal Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties. (Pub. L. 91–181, § 7, Dec. 30, 1969, 83 Stat. 839.)

§ 4308. Impairment of existing powers of other Federal departments and agencies.

Nothing in this chapter shall be construed to restrict or infringe upon the authority of any Federal department or agency. (Pub. L. 91–181, § 8, Dec. 30, 1969, 83 Stat. 840.)

§ 4309. Political activities of Committee and Advisory Council employees.

Subchapter III of chapter 73 of Title 5 shall apply to the employees of the Committee and the employees of the Advisory Council. (Pub. L. 91–181, § 9, Dec. 30, 1969, 93 Stat. 840.)

§ 4310. Authorization of appropriations; availability of funds of Interagency Committee on Mexican-American Affairs.

There are hereby authorized to be appropriated for fiscal years 1970 and 1971 such sums as may be necessary to carry out the provisions of this chapter, and any funds made available for expenses of the Interagency Committee on Mexican-American Affairs established by the President's memorandum of June 9, 1967, shall be available for the purposes of this chapter. (Pub. L. 91–181, § 10, Dec. 30, 1969, 83 Stat. 840.)

§ 4311. Annual report to President and Congress.

The Committee shall, as soon as practicable, after the end of each fiscal year, submit a report to the President and the Congress of its activities for the

[1] So in original, probably should read 5332.

preceding year, including in such report any recommendations the Committee deems appropriate to accomplish the purposes of this chapter. (Pub. L. 91–181, § 11, Dec. 30, 1969, 83 Stat. 840.)

§ 4312. Termination.

This chapter shall expire five years after it becomes effective. (Pub. L. 91–181, § 12, Dec. 30, 1969, 83 Stat. 840.)

REFERENCES IN TEXT

"This chapter", referred to in text, was, in the original, "this Act", meaning Pub. L. 91–181, which was approved Dec. 30, 1969.

Chapter 55.—NATIONAL ENVIRONMENTAL POLICY

Sec.
4321. Congressional declaration of purpose.

SUBCHAPTER I.—POLICIES AND GOALS

4331. Congressional declaration of national environmental policy.
4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts.
4333. Conformity of administrative procedures to national environmental policy.
4334. Other statutory obligations of agencies.
4335. Efforts supplemental to existing authorizations.

SUBCHAPTER II.—COUNCIL ON ENVIRONMENTAL QUALITY

4341. Reports to Congress; recommendations for legislation.
4342. Establishment; membership; Chairman; appointments.
4343. Employment of personnel, experts and consultants.
4344. Duties and functions.
4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives.
4346. Tenure and compensation of members.
4347. Authorization of appropriation.

§ 4321. Congressional declaration of purpose.

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. (Pub. L. 91–190, § 2, Jan. 1, 1970, 83 Stat. 852.)

SHORT TITLE

Section 1 Pub. L. 91–190 provided: "That this Act [enacting this chapter] may be cited as the 'National Environmental Policy Act of 1969'."

TERMINATION OF CABINET COMMITTEE ON THE ENVIRONMENT

The Cabinet Committee on the Environment was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 16 of Title 31, Money and Finance.

EX. ORD. NO. 11472. CABINET COMMITTEE ON THE ENVIRONMENT AND CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Ex. Ord. No. 11472, May 29, 1969, 34 F.R. 8693, as amended by Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

PART I. CABINET COMMITTEE ON THE ENVIRONMENT

Section 101. Establishment of the Cabinet Committee. (a) There is hereby established the Cabinet Committee on the Environment (hereinafter referred to as "the Cabinet Committee").

(b) The President of the United States shall preside over meetings of the Cabinet Committee. The Vice President shall preside in the absence of the President.

(c) The Cabinet Committee shall be composed of the following members:

The Vice President of the United States
Secretary of Agriculture
Secretary of Commerce
Secretary of Health, Education and Welfare
Secretary of Housing and Urban Development
Secretary of the Interior
Secretary of Transportation

and such othe heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Cabinet Committee may designate an alternate, who shall serve as a member of the Cabinet Committee whenever the regular member is unable to attend any meeting of the Cabinet Committee.

(e) When matters which affect the interest of Federal agencies the heads of which are not members of the Cabinet Committee are to be considered by the Cabinet Committee, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Cabinet Committee.

(f) The Director of the Bureau of the Budget [now the Director of the Office of Management and Budget], the Director of the Office of Science and Technology, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Cabinet Committee on the Environment as observers.

(g) The Chairman of the Council on Environmental Quality (established by Public Law 91–190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee.

Sec. 102. Functions of the Cabinet Committee. (a) The Cabinet Committee shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Cabinet Committee is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Cabinet Committee shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Cabinet Committee may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Cabinet Committee shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such

agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

Sec. 103. Coordination. The Secretary of the Interior may make available to the Cabinet Committee for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49 [section 460*l* et seq. of this title], to the extent permitted by law, he may make such authorities and resources available to the Cabinet Committee also for promoting such coordination of other matters assigned to the Cabinet Committee by this order.

Sec. 104. Assistance for the Cabinet Committee. In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Council on Environmental Quality (established by Public Law 91–190) [this chapter] shall provide or arrange for necessary administrative and staff services, support, and facilities for the Cabinet Committee, and (2) each department and agency which has membership on the Cabinet Committee under Section 101(c) hereof shall furnish the Cabinet Committee such information and other assistance as may be available.

PART II. CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

Sec. 201. Establishment of the Committee. There is hereby established the Citizens' Advisory Committee on Environmental Quality (hereinafter referred to as the "Citizens' Committee"). The Citizens' Committee shall be composed of a chairman and not more than 14 other members appointed by the President. Appointments to membership on the Citizens' Committee shall be for staggered terms, except that the chairman of the Citizens' Committee shall serve until his successor is appointed.

Sec. 202. Functions of the Citizens' Committee. The Citizens' Committee shall advise the President and the Cabinet Committee on matters assigned to the Cabinet Committee by the provisions of this order.

Sec. 203. Expenses. Members of the Citizens' Committee shall receive no compensation from the United States by reason of their services under this order but shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701–5708) [sections 5701–5708 of Title 5, Government Organization and Employees] for persons in the Government service employed intermittently.

Sec. 204. Continuity. Persons who on the date of this order are members of the Citizens' Advisory Committee on Recreation and Natural Beauty established by Executive Order No. 11278 of May 4, 1966, as amended, shall, until the expirations of their respective terms and without further action by the President, be members of the Citizens' Committee established by the provisions of this Part in lieu of an equal number of the members provided for in section 201 of this order.

PART III. GENERAL PROVISIONS

Sec. 301. Construction. Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

Sec. 302. Prior bodies and orders. The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

(1) Executive Order No. 11278 of May 4, 1966.

(2) Executive Order No. 11359A of June 29, 1967.

(3) Executive Order No. 11402 of March 29, 1968.

RICHARD NIXON

EX. ORD. NO. 11514. PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Policy.* The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

SEC. 2. *Responsibilities of Federal agencies.* Consonant with Title I of the National Environmental Policy Act of 1969 [sections 4331–4335 of this Title], hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act [section 4332 of this title].

SEC. 3. *Responsibilities of Council on Environmental Quality.* The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of

pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act [section 4332 (2)(C) of this title].

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act [section 4341 of this title].

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

SEC. 4. *Amendments of E.O. 11472.* Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget,", the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91–190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91–190) [this chapter]".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

RICHARD NIXON

EX ORD. NO. 11523. NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

Ex. Ord. No. 11523, Apr. 9, 1970, 35 F.R. 5993, provided: By virtue of the authority vested in me as President of the United States, and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Establishment of the Council.* (a) There is hereby established the National Industrial Pollution Control Council (hereinafter referred to as "the Industrial Council") which shall be composed of a Chairman, a Vice-chairman, and other representatives of business and industry appointed by the Secretary of Commerce (hereinafter referred to as "the Secretary").

(b) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Director of the Industrial Council.

SEC. 2. *Functions of the Industrial Council.* The Industrial Council shall advise the President and the Chairman of the Council on Environmental Quality, through the Secretary, on programs of industry relating to the quality of the environment. In particular, the Industrial Council may—

(1) Survey and evaluate the plans and actions of industry in the field of environmental quality.

(2) Identify and examine problems of the effects on the environment of industrial practices and the needs of industry for improvements in the quality of the environment, and recommend solutions to those problems.

(3) Provide liaison among members of the business and industrial community on environmental quality matters.

(4) Encourage the business and industrial community to improve the quality of the environment.

(5) Advise on plans and actions of Federal, State, and local agencies involving environmental quality policies affecting industry which are referred to it by the Secretary, or by the Chairman of the Council on Environmental Quality through the Secretary.

SEC. 3 *Subordinate Committees.* The Industrial Council may establish, with the concurrence of the Secretary, such subordinate committees as it may deem appropriate to assist in the performance of its functions. Each subordinate committee shall be headed by a chairman appointed by the Chairman of the Industrial Council with the concurrence of the Secretary.

SEC. 4. *Assistance for the Industrial Council.* In compliance with applicable law, and as necessary to serve the purposes of this order, the Secretary shall provide or arrange for administrative and staff services, support, and facilities for the Industrial Council and any of its subordinate committees.

SEC. 5. *Expenses.* Members of the Industrial Council or any of its subordinate committees shall receive no compensation from the United States by reason of their services hereunder, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 6. *Regulations.* The provisions of Executive Order No. 11007 of February 26, 1962 (3 CFR 573) [set out as a note under section 901 of Title 5] prescribing regulations for the formation and use of advisory committees, are hereby made applicable to the Industrial Council and each of its subordinate committees. The Secretary may exercise the discretionary powers set forth in that order.

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency or of the Industrial Council or of any of its subordinate committees, or as abrogating or restricting any such function in any manner.

RICHARD NIXON

REORGANIZATION PLAN NO. 3 OF 1970

Eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. —

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

ENVIRONMENTAL PROTECTION AGENCY

SECTION 1. ESTABLISHMENT OF AGENCY

(a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate.

SEC. 2. TRANSFERS TO ENVIRONMENTAL PROTECTION AGENCY

(a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof.

(2) (i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d–1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

(i) The National Air Pollution Control Administration,

(ii) The Environmental Control Administration:

(A) Bureau of Solid Waste Management,

(B) Bureau of Water Hygiene,

(C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products, including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended, and the Public Health Service Act, as amended.

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969, [section 4344(5) of this title], (Public Law 91–190, approved January 1, 1970, 83 Stat. 855), as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8) (i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k), (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(1) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(1)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. 46a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. 466f), together with its functions, and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e), together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

SEC. 4. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem

to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. ABOLITIONS

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. 466–1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

SEC. 7. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code and providing for an Environmental Protection Agency. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

Section 907 of title 5 of the United States Code will operate to preserve administrative proceedings, including any public hearing proceedings, related to the transferred functions, which are pending immediately prior to the taking effect of the reorganization plan.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

RICHARD NIXON

THE WHITE HOUSE,
July 9, 1970.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally-related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within the Department of Commerce, a National Oceanic and Atmospheric Administration.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Our national government today is not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Indeed, the present governmental structure for dealing with environmental pollution often defies effective and concerted action.

Despite its complexity, for pollution control purposes the environment must be perceived as a single, interrelated system. Present assignments of departmental responsibilities do not reflect this interrelatedness.

Many agency missions, for example, are designed primarily along media lines—air, water, and land. Yet the sources of air, water, and land pollution are interrelated and often interchangeable. A single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of the air pollution may produce more solid wastes, which then pollute the land or water. Control of the water-polluting effluent may convert it into solid wastes, which must be disposed of on land.

Similarly, some pollutants—chemicals, radiation, pesticides—appear in all media. Successful control of them at present requires the coordinated efforts of a variety of separate agencies and departments. The results are not always successful.

A far more effective approach to pollution control would:

—identify pollutants.
—trace them through the entire ecological chain, observing and recording changes in form as they occur.
—Determine the total exposure of man his environment.
—Examine interactions among forms of pollution.
—Identify where in the ecological chain interdiction would be most appropriate.

In organizational terms, this requires pulling together into one agency a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies. It also requires that the new agency include sufficient support elements—in research and in aids to State and local antipolution programs, for example—to give it the needed strength and potential for carrying out its mission. The new agency would also, of course, draw upon the results of research conducted by other agencies.

COMPONENTS OF THE EPA

Under the terms of Reorganization Plan No. 3, the following would be moved to the new Environmental Protection Agency:

—The functions carried out by the Federal Water Quality Administration (from the Department of the Interior).
—Functions with respect to pesticides studies now vested in the Department of the Interior.
—The functions carried out by the Natonal Air Pollution Control Administration (from the Department of Health, Education, and Welfare).
—The functions carried out by the Bureau of Solid Waste Management and the Bureau of Water Hygiene, and portions of the functions carried out by the Bureau of Radiological Health of the Environmental Control Administration (from the Department of Health, Education and Welfare).

—Certain functions with respect to pesticides carried out by the Food and Drug Administration (from the Department of Health, Education and Welfare).

—Authority to perform studies relating to ecological systems now vested in the Council on Environmental Quality.

—Certain functions respecting radiation criteria and standards now vested in the Atomic Energy Commission and the Federal Radiation Council.

—Functions respecting pesticides registration and related activities now carried out by the Agricultural Research Service (from the Department of Agriculture).

With its broad mandate, EPA would also develop competence in areas of environmental protection that have not previously been given enough attention, such, for example, as the problem of noise, and it would provide an organization to which new programs in these areas could be added.

In brief, these are the principal functions to be transferred:

FEDERAL WATER QUALITY ADMINISTRATION.—Charged with the control of pollutants which impair water quality, it is broadly concerned with the impact of degraded water quality. It performs a wide variety of functions, including research, standard-setting and enforcement, and provides construction grants and technical assitance.

CERTAIN PESTICIDES RESEARCH AUTHORITY FROM THE DEPARTMENT OF THE INTERIOR.—Authority for research on the effects of pesticides on fish and wildlife would be provided to the EPA through thansfer of the specialized research authority of the pesticides act enacted in 1958. Interior would retain its responsibility to do research on all factors affecting fish and wildlife. Under this provision, only one laboratory would be transferred to the EPA—the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries. The EPA would work closely with the fish and wildlife laboratories remaining with the Bureau of Sport Fisheries and Wildlife.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION.—As the principal Federal agency concerned with air pollution, it conducts research on the effects of air pollution, operates a monitoring network, and promulgates criteria which serve as the basis for setting air quality standards. Its regulatory functions are similar to those of the Federal Water Quality Administration. NAPCA is responsible for administering the Clean Air Act, which involves designating air quality regions, approving State standards and providing financial and technical assistance to State Control agencies to enable them to comply with the Act's provisions. It also sets and enforces Federal automotive emission standards.

ELEMENTS OF THE ENVIRONMENTAL CONTROL ADMINISTRATION.—ECA is the focal point within HEW for evaluation and control of a broad range of environmental health problems, including water quality, solid wastes, and radiation. Programs in the ECA involve research, development of criteria and standards, and the administration of planning and demonstration grants. From the ECA, the activities of the Bureaus of Water Hygiene and Solid Waste Management and portions of the activities of the Bureau of Radiological Health would be transferred. Other functions of the ECA including those related to the regulation of radiation from consumer products and occupational safety and health would remain in HEW.

PESTICIDES RESEARCH AND STANDARD-SETTING PROGRAMS OF THE FOOD AND DRUG ADMINISTRATION.—FDA's pesticides program consists of setting and enforcing standards which limit pesticide residues in food. EPA would have the authority to set pesticide standards and to monitor compliance with them, as well as to conduct related research. However, as an integral part of its food protection activities, FDA would retain its authority to remove from the market food with excess pesticide residues.

GENERAL ECOLOGICAL RESEARCH FROM THE COUNCIL ON ENVIRONMENTAL QUALITY.—This authority to perform studies and research relating to ecological systems would be in addition to EPA's other specific research authorities, and it would help EPA to measure the impact of pollutants. The Council on Environmental Quality would retain its authority to conduct studies and research relating to environmental quality.

ENVIRONMENTAL RADIATION STANDARDS PROGRAMS.—The Atomic Energy Commission is now responsible for establishing environmental radiation standards and emission limits for radioactivity. Those standards have been based largely on broad guidelines recommended by the Federal Radiation Council. The Atomic Energy Commission's authority to set standards for the protection of the general environment from radioactive material would be transferred to the Environmental Protection Agency. The functions of the Federal Radiation Council would also be transferred. AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority.

PESTICIDES REGISTRATION PROGRAM OF THE AGRICULTURAL RESEARCH SERVICE.—The Department of Agriculture is currently responsible for several distinct functions related to pesticides use. It conducts research on the efficacy of various pesticides as related to other pest control methods and on the effects of pesticides on non-target plants, livestock, and poultry. It registers pesticides, monitors their persistence and carries out an educational program on pesticide use through the extension service. It conducts extensive pest control programs which utilize pesticides.

By transferring the Department of Agriculture's pesticides registration and monitoring function to the EPA and merging it with the pesticides programs being transferred from HEW and Interior, the new agency would be given a broad capability for control over the introduction of pesticides into the environment.

The Department of Agriculture would continue to conduct research on the effectiveness of pesticides. The Department would furnish this information to the EPA, which would have the responsibility for actually licensing pesticides for use after considering environmental and health effects. Thus the new agency would be able to make use of the expertise of the Department.

ADVANTAGES OF REORGANIZATION

This reorganization would permit response to environmental problems in a manner beyond the previous capability of our pollution control programs. The EPA would have the capacity to do research on important pollutants irrespective of the media in which they appear, and on the impact of these pollutants on the total environment. Both by itself and together with other agencies, the EPA would monitor the condition of the environment—biological as well as physical. With these data, the EPA would be able to establish quantitative "environmental baselines"—critical if we are to measure adequately the success or failure of our pollution abatement efforts.

As no disjointed array of separate programs can, the EPA would be able—in concert with the States—to set and enforce standards for air and water quality and for individual pollutants. This consolidation of pollution control authorities would help assure that we do not create new environmental problems in the process of controlling existing ones. Industries seeking to minimize the adverse impact of their activities on the environment would be assured of consistent standards covering the full range of their waste disposal problems. As the States develop and expand their own pollution control programs, they would be able to look to one agency to support their efforts with financial and technical assistance and training.

In proposing that the Environmental Protection Agency be set up as a separate new agency, I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. In this case, however, the arguments against placing environmental protection activities under the jurisdiction of one or another of the existing departments and agencies are compelling.

In the first place, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission—such as resource development, transportation, health, defense, urban growth or agriculture—which necessarily affects its own view of environmental questions.

In the second place, if the critical standard-setting functions were centralized within any one existing department, it would require that department constantly

to make decisions affecting other departments—in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question.

Because environmental protection cuts across so many jurisdictions, and because arresting environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed. That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area.

ROLES AND FUNCTIONS OF EPA

The principal roles and functions of the EPA would include:

—The establishment and enforcement of environmental protection standards consistent with national environmental goals.

—The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.

—Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.

—Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

One natural question concerns the relationship between the EPA and the Council on Environmental Quality, recently established by Act of Congress.

It is my intention and expectation that the two will work in close harmony, reinforcing each other's mission. Essentially, the Council is a top-level advisory group (which might be compared with the Council of Economic Advisers), while the EPA would be an operating, "line" organization. The Council will continue to be a part of the Executive Office of the President and will perform its overall coordinating and advisory roles with respect to all Federal programs related to environmental quality.

The Council, then, is concerned with all aspects of environmental quality—wildlife preservation, parklands, land use, and population growth, as well as pollution. The EPA would be charged with protecting the environment by abating pollution. In short, the Council focuses on what our broad policies in the environment field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The oceans and the atmosphere are interacting parts of the total environmental system upon which we depend not only for the quality of our lives, but for life itself.

We face immediate and compelling needs for better protection of life and property from natural hazards, and for a better understanding of the total environment—and understanding which will enable us more effectively to monitor and predict its actions, and ultimately, perhaps to exercise some degree of control over them.

We also face a compelling need for exploration and development leading to the intelligent use of our marine resources. The global oceans, which constitute nearly three-fourths of the surface of our planet, are today the least-understood, the least-developed, and the least-protected part of our earth. Food from the oceans will increasingly be a key element in the world's fight against hunger. The mineral resources of the ocean beds and of the oceans themselves, are being increasingly tapped to meet the growing world demand. We must understand the nature of these resources, and assure their development without either contaminating the marine environment or upsetting its balance.

Establishment of the National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce would enable us to approach these tasks in a coordinated way. By employing a unified approach to the problems of the oceans and atmosphere, we can increase our knowledge and expand our opportunities not only in those areas, but in the third major component of our environment, the solid earth, as well.

Scattered through various Federal departments and agencies, we already have the scientific, technological, and administrative resources to make an effective, unified approach possible. What we need is to bring them together. Establishment of NOAA would do so.

By far the largest of the components being merged would be the Commerce Department's Environmental Science Services Administration (ESSA), with some 10,000 employees (70 percent of NOAA's total personnel strength) and estimated Fiscal 1970 expenditures of almost $200 million. Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a Department which has traditionally been a center for service activities in the scientific and technological area.

COMPONENTS OF NOAA

Under terms of Reorganization Plan No. 4, the programs of the following organizations would be moved into NOAA:

—The Environmental Science Services Administration (from within the Department of Commerce).

—Elements of the Bureau of Commercial Fisheries (from the Department of the Interior).

—The marine sport fish program of the Bureau of Sport Fisheries and Wildlife (from the Department of the Interior).

—The Marine Minerals Technology Center of the Bureau of Mines (from the Department of the Interior).

—The Office of Sea Grant Programs (from the National Science Foundation).

—Elements of the United States Lake Survey (from the Department of the Army).

In addition, by executive action, the programs of the following organizations would be transferred to NOAA:

—The National Oceanographic Data Center (from the Department of the Navy).

—The National Oceanographic Instrumentation Center (from the Department of the Navy).

—The National Data Buoy Project (from the Department of Transportation).

In brief, these are the principal functions of the programs and agencies to be combined:

THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION (ESSA) comprises the following components:

—The Weather Bureau (weather, marine, river and flood forecasting and warning).

—The Coast and Geodetic Survey (earth and marine description, mapping and charting).

—The Environmental Data Service (storage and retrieval of environmental data).

—The National Environmental Satellite Center (observation of the global environment from earth-orbiting satellites).

—The ESSA Research Laboratories (research on physical environmental problems).

ESSA's activities include observing and predicting the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth. It maintains the nation's warning systems for such natural hazards as hurricanes, tornadoes, floods, earthquakes and seismic sea waves. It provides information for national defense, agriculture, transportation and industry.

ESSEA monitors atmospheric, oceanic and geophysical phenomena on a global basis, through an unparalleled complex of air, ocean, earth and space facilities. It also prepares aeronautical and marine maps and charts.

BUREAU OF COMMERCIAL FISHERIES AND MARINE SPORT FISH ACTIVITIES.—Those fishery activities of the Department of the Interior's U.S. Fish and Wildlife Service which are ocean related and those which are directed toward commercial fishing would be transferred. The Fish and Wildlife Service's Bureau of Commercial Fisheries has the dual function of strengthening the fishing industry and promoting conservation of fishery stocks. It conducts research on important marine species and on fundamental oceanography, and operates a fleet of oceanographic vessels and a number of laboratories. Most of its

activities would be transferred. From the Fish and Wildlife Service's Bureau of Sport Fisheries and Wildlife, the marine sport fishing program would be transferred. This involves five supporting laboratories and three ships engaged in activities to enhance marine sport fishing opportunities.

THE MARINE MINERALS TECHNOLOGY CENTER is concerned with the development of marine mining technology.

OFFICE OF SEA GRANT PROGRAMS.—The Sea Grant Program was authorized in 1966 to permit the Federal Government to assist the academic and industrial communities in developing marine resources and technology. It aims at strengthening education and training of marine specialists, supporting applied research in the recovery and use of marine resources, and developing extension and advisory services. The Office carries out these objectives by making grants to selected academic institutions.

THE U.S. LAKE SURVEY has two primary missions. It prepares and publishes navigation charts of the Great Lakes and tributary waters and conducts research on a variety of hydraulic and hydrologic phenomena of the Great Lakes' waters. Its activities are very similar to those conducted along the Atlantic and Pacific coasts by ESSA's Coast and Geodetic Survey.

THE NATIONAL OCEANOGRAPHIC DATA CENTER is responsible for the collection and dissemination of oceanographic data accumulated by all Federal agencies.

THE NATIONAL OCEANOGRAPHIC INSTRUMENTATION CENTER provides a central Federal service for the calibration and testing of oceanographic instruments.

THE NATIONAL DATA BUOY DEVELOPMENT PROJECT was established to determine the feasibility of deploying a system of automatic ocean buoys to obtain oceanic and atmospheric data.

ROLE OF NOAA

Drawing these activities together into a single agency would make possible a balanced Federal program to improve our understanding of the resources of the sea, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets. It would make possible a consolidated program for achieving a more comprehensive understanding of oceanic and atmospheric phenomena, which so greatly affect our lives and activities. It would facilitate the cooperation between public and private interests that can best serve the interests of all.

I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. It would coordinate its own scientific and technical resources with the technical and operational capabilities of other government agencies and private institutions. As important, NOAA would continue to provide those services to other agencies of government, industry and private individuals which have become essential to the efficient operation of our transportation systems, our agriculture and our national security. I expect it to maintain continuing and close liaison with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to ensure that environmental questions are dealt with in their totality and they benefit from the full range of the government's technical and human resources.

Authorities who have studied this matter, including the Commission on Marine Science, Engineering and Resources, strongly recommended the creation of a National Advisory Committee for the Oceans. I agree. Consequently, I will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and the Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

AN ON-GOING PROCESS

The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

In formulating these reorganization plans, I have been greatly aided by the work of the President's Advisory Council on Executive Organization (the Ash Council), the Commission on Marine Science, Engineering and Resources (the Stratton Commission, appointed by President Johnson), my special task force on oceanography headed by Dr. James Wakelin, and by the information developed during both House and Senate hearings on proposed NOAA legislation.

Many of those who have advised me have proposed additional reorganizations, and it may well be that in the future I shall recommend further changes. For the present, however, I think the two reorganizations transmitted today represent a sound and significant beginning. I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once. As we see how these changes work out, we will gain a better understanding of what further changes—in addition to these—might be desirable.

Ultimately, our objective should be to insure that the nation's environmental and resource protection activities are so organized as to maximize both the effective coordination of all and the effective functioning of each.

The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.

RICHARD NIXON.

THE WHITE HOUSE,
July 9, 1970.

SUBCHAPTER I.—POLICIES AND GOALS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 4342, 4344 of this title.

§ 4331. Congressional declaration of national environmental policy.

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. (Pub. L. 91–190, title I, § 101, Jan. 1, 1970, 83 Stat. 852.)

COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

Pub. L. 91–213, Mar. 16, 1970, 84 Stat. 67, provided:

"That the Commission on Population Growth and the American Future is hereby established to conduct and sponsor such studies and research and make such recommendations as may be necessary to provide information and education to all levels of government in the United States, and to our people, regarding a broad range of problems associated with population growth and their implications for America's future.

"MEMBERSHIP OF COMMISSION

"SEC. 2 (a) The Commission on Population Growth and the American Future (hereinafter referred to as the 'Commission') shall be composed of—

"(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

"(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

"(3) not to exceed twenty members appointed by the President.

"(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"COMPENSATION OF MEMBERS OF THE COMMISSION

"SEC. 3. (a) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(b) Members of the Commission who are not officers or full-time employees of the United States shall each receive $100 per diem when engaged in the actual performance of duties vested in the Commission.

"(c) All members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"DUTIES OF THE COMMISSION

"SEC. 4. The Commission shall conduct an inquiry into the following aspects of population growth in the United States and its foreseeable social consequences:

"(1) the probable course of population growth, internal migration, and related demographic developments between now and the year 2000;

"(2) the resources in the public sector of the economy that will be required to deal with the anticipated growth in population;

"(3) the ways in which population growth may affect the activities of Federal, State, and local government;

"(4) the impact of population growth on environmental pollution and on the depletion of natural resources; and

"(5) the various means appropriate to the ethical values and principles of this society by which our Nation can achieve a population level properly suited for its environmental, natural resources, and other needs.

"STAFF OF THE COMMISSION

"SEC. 5. (a) The Commission shall appoint an Executive Director and such other personnel as the Commission deems necessary without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall fix the compensation of such personnel without regard to the provisions of chapter 51 and subtitle II of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided,* That no personnel so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

"(b) The Executive Director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of title 5 of the United States Code, but at rates for individuals not to exceed the per diem equivalent of the rate authorized for GS–18 by section 5332 of such title.

"(c) The Commission is authorized to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

"GOVERNMENT AGENCY COOPERATION

"SEC. 6. The Commission is authorized to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; and each such department or agency is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon reqeust made by the Chairman or any other member when acting as Chairman.

"ADMINISTRATIVE SERVICES

"SEC. 7. The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

"REPORTS OF COMMISSION: TERMINATION

"SEC. 8. In order that the President and the Congress may be kept advised of the progress of its work, the Commission shall, from time to time, report to the President and the Congress such significant findings and recommendations as it deems advisable. The Commission shall submit an interim report to the President and the Congress one year after it is established and shall submit its final report two years after the enactment of this Act. The Commission shall cease to exist sixty days after the date of the submission of its final report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 9. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act."

EX. ORD. NO. 11507. PREVENTION, CONTROL, AND ABATEMENT OF AIR AND WATER POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11507, Feb. 4, 1970, 35 F.R. 2573, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and

policy of the Clean Air Act, as amended (42 U.S.C. 1857), the Federal Water Pollution Control Act, as amended (33 U.S.C. 466), and the National Environmental Policy Act of 1969 (Public Law No. 91–190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Policy.* It is the intent of this order that the Federal Government in the design, operation, and maintenance of its facilities shall provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources.

SEC. 2. *Definitions.* As used in this order:

(a) The term "respective Secretary" shall mean the Secretary of Health, Education, and Welfare in matters pertaining to air pollution control and the Secretary of the Interior in matters pertaining to water pollution control.

(b) The term "agencies" shall mean the departments, agencies, and establishments of the executive branch.

(c) The term "facilities" shall mean the buildings, installations, structures, public works, equipment, aircraft, vessels, and other vehicles and property, owned by or constructed or manufactured for the purpose of leasing to the Federal Government.

(d) The term "air and water quality standards" shall mean respectively the quality standards and related plans of implementation, including emission standards, adopted pursuant to the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended, or as prescribed pursuant to section 4(b) of this order.

(e) The term "performance specifications" shall mean permissible limits of emissions, discharges, or other values applicable to a particular Federal facility that would, as a minimum, provide for conformance with air and water quality standards as defined herein.

(f) The term "United States" shall mean the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 3. *Responsibilities.* (a) Heads of agencies shall, with regard to all facilities under their jurisdiction:

(1) Maintain review and surveillance to ensure that the standards set forth in section 4 of this order are met on a continuing basis.

(2) Direct particular attention to identifying potential air and water quality problems associated with the use and production of new materials and make provisions for their prevention and control.

(3) Consult with the respective Secretary concerning the best techniques and methods available for the protection and enhancement of air and water quality.

(4) Develop and publish procedures, within six months of the date of this order, to ensure that the facilities under their jurisdiction are in conformity with this order. In the preparation of such procedures there shall be timely and appropriate consultation with the respective Secretary.

(b) The respective Secretary shall provide leadership in implementing this order, including the provision of technical advice and assistance to the heads of agencies in connection with their duties and responsibilities under this order.

(c) The Council on Environmental Quality shall maintain continuing review of the implementation of this order and shall, from time to time, report to the President thereon.

SEC. 4. *Standards.* (a) Heads of agencies shall ensure that all facilities under their jurisdiction are designed, operated, and maintained so as to meet the following requirements:

(1) Facilities shall conform to air and water quality standards as defined in section 2(d) of this order. In those cases where no such air or water quality standards are in force for a particular geographical area, Federal facilities in that area shall conform to the standards established pursuant to subsection (b) of this section. Federal facilities shall also conform to the performance specifications provided for in this order.

(2) Actions shall be taken to avoid or minimize wastes created through the complete cycle of operations of each facility.

(3) The use of municipal or regional waste collection or disposal systems shall be the preferred method of disposal of wastes from Federal facilities. Whenever use of such a system is not feasible or appropriate, the heads of agencies concerned shall take necessary measures for the satisfactory disposal of such wastes, including:

(A) When appropriate, the installation and operation of their own waste treatment and disposal facilities in a manner consistent with this section.

(B) The provision of trained manpower, laboratory and other supporting facilities as appropriate to meet the requirements of this section.

(C) The establishment of requirements that operators of Federal pollution control facilities meet levels of proficiency consistent with the operator certification requirements of the State in which the facility is located. In the absence of such State requirements the respective Secretary may issue guidelines, pertaining to operator qualifications and performance, for the use of heads of agencies.

(4) The use, storage, and handling of all materials, including but not limited to, solid fuels, ashes, petroleum products, and other chemical and biological agents, shall be carried out so as to avoid or minimize the possibilities for water and air pollution. When appropriate, preventive measure shall be taken to entrap spillage or discharge or otherwise to prevent accidental pollution. Each agency, in consultation with the respective Secretary, shall establish appropriate emergency plans and procedures for dealing with accidental pollution.

(5) No waste shall be disposed of or discharged in such a manner as could result in the pollution of ground water which would endanger the health or welfare of the public.

(6) Discharges of radioactivity shall be in accordance with the applicable rules, regulations, or requirements of the Atomic Energy Commission and with the policies and guidance of the Federal Radiation Council as published in the FEDERAL REGISTER.

(b) In those cases where there are no air or water quality standards as defined in section 2(d) of this order in force for a particular geographic area or in those cases where more stringent requirements are deemed advisable for Federal facilities, the respective Secretary, in consultation with appropriate Federal, State, interstate, and local agencies, may issue regulations establishing air or water quality standards for the purpose of this order, including related schedules for implementation.

(c) The heads of agencies, in consultation with the respective Secretary, may from time to time identity facilities or uses thereof which are to be exempted, including temporary relief from provisions of this order in the interest of national security or in extraordinary cases where it is in the national interest. Such exemptions shall be reviewed periodically by the respective Secretary and the heads of the agencies concerned. A report on exemptions granted shall be submitted to the Council on Environmental Quality periodically.

SEC. 5. *Procedures for abatement of air and water pollution at existing Federal facilities.* (a) Actions necessary to meet the requirements of subsections (a)(1) and (b) of section 4 of this order pertaining to air and water pollution at existing facilities are to be completed or under way no later than December 31, 1972. In cases where an enforcement conference called pursuant to law or air and water quality standards require earlier actions, the earlier date shall be applicable.

(b) In order to ensure full compliance with the requirements of section 5(a) and to facilitate budgeting for necessary corrective and preventive measures, heads of agencies shall present to the Director of the Bureau of the Budget [now the Director of the Office of Management and Budget] by June 30, 1970, a plan to provide for such improvements as may be necessary to meet the required date. Subsequent revisions needed to keep any such plan up-to-date shall be promptly submitted to the Director of the Bureau of the Budget [now the Director of the Office of Management and Budget].

(c) Heads of agencies shall notify the respective Secretary as to the performance specifications proposed for each facility to meet the requirements of subsections 4 (a)(1) and (b) of this order. Where the respective Secretary finds that such performance specifications are not adequate to meet such requirements, he shall consult with the agency head and the latter shall thereupon develop adequate performance specifications.

(d) As may be found necessary, heads of agencies may submit requests to the Director of the Bureau of the Budget [now the Director of the Office of Management and Budget] for extensions of time for a project beyond the time specified in section 5(a). The Director, in consultation with the respective Secretary, may approve such requests if the Director deems that such project is not technically feasible or immediately necessary to meet the requirements of subsections 4 (a) and (b). Full justification as to the extraordinary circumstances necessitating any such extension shall be required.

(e) Heads of agencies shall not use for any other purpose any of the amounts appropriated and apportioned for corrective and preventive measures necessary to meet the requirements of subsection (a) for the fiscal year ending June 30, 1971, and for any subsequent fiscal year.

SEC. 6. *Procedures for new Federal facilities.* (a) Heads of agencies shall ensure that the requirements of section 4 of this order are considered at the earliest possible stage of planning for new facilities.

(b) A request for funds to defray the cost of designing and constructing new facilities in the United States shall be included in the annual budget estimates of an agency only if such request includes funds to defray the costs of such measures as may be necessary to assure that the new facility will meet the requirement of section 4 of this order.

(c) Heads of agencies shall notify the respective Secretary as to the performance specifications proposed for each facility when action is necessary to meet the requirements of subsections 4 (a)(1) and (b) of this order. Where the respective Secretary finds that such performance specifications are not adequate to meet such requirements he shall consult with the agency head and the latter shall thereupon develop adequate performance specifications.

(d) Heads of agencies shall give due consideration to the quality of air and water resources when facilities are constructed or operated outside the United States.

SEC. 7. *Procedures for Federal Water Resources Projects.* (a) All water resources projects of the Departments of Agriculture, the Interior, and the Army, the Tennessee Valley Authority, and the United States Section of the International Boundary and Water Commission shall be consistent with the requirements of section 4 of this order. In addition, all such projects shall be presented for the consideration of the Secretary of the Interior at the earlies feasible stage if they involve proposals or recommendations with respect to the authorization or construction of any Federal water resources project in the United States. The Secretary of the Interior shall review plans and supporting data for all such projects relating to water quality, and shall prepare a report to the head of the responsible agency describing the potential impact of the project on water quality, including recommendations concerning any changes or other measures with respect thereto which he considers to be necessary in connection with the design, construction, and operation of the project.

(b) The report of the Secretary of the Interior shall accompany at the earliest practicable stage any report proposing authorization or construction, or a request for funding, of such a water resource project. In any case in which the Secretary of the Interior fails to submit a report within 90 days after receipt of project plans, the head of the agency concerned may propose authorization, construction, or funding of the project without such an accompanying report. In such a case, the head of the agency concerned shall explicitly state in his request or report concerning the project that the Secretary of the Interior has not reported on the potential impact of the project on water quality.

SEC. 8. *Saving provisions.* Except to the extent that they are inconsistent with this order, all outstanding rules, regulations, order, delegations, or other forms of administrative action issued, made, or otherwise taken under the orders superseded by section 9 hereof or relating to the subject of this order shall remain in full force and effect until amended, modified, or terminated by proper authority.

SEC. 9. *Orders superseded.* Executive Order No. 11282 of May 26, 1966, and Executive Order No. 11288 of July 2, 1966, are hereby superseded.

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§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts.

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes;

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(F) make available to States, counties, municipalities, institutions, and individuals, advice and

information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality established by subchapter II of this chapter. (Pub. L. 91–190, title I, § 102, Jan. 1, 1970, 83 Stat. 853.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4334 of this title.

§ 4333. Conformity of administrative procedures to national environmental policy.

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter. (Pub. L. 91–190, title I, § 103, Jan. 1, 1970, 83 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4334 of this title.

§ 4334. Other statutory obligations of agencies.

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency. (Pub. L. 91–190, title I, § 104, Jan. 1, 1970, 83 Stat. 854.)

§ 4335. Efforts supplemental to existing authorizations.

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies. (Pub. L. 91–190, title I, § 105, Jan. 1, 1970, 83 Stat. 854.)

SUBCHAPTER II—COUNCIL ON ENVIRONMENTAL QUALITY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4332 of this title.

§ 4341. Reports to Congress; recommendations for legislation.

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation. (Pub. L. 91–190, title II, § 201, Jan. 1, 1970, 83 Stat. 854.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4344 of this title.

§ 4342. Establishment; membership; Chairman; appointments.

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment. (Pub. L. 91–190, title II, § 202, Jan. 1, 1970, 83 Stat. 854.)

§ 4343. Employment of personnel, experts and consultants.

The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of Title 5 (but without regard to the last sentence thereof). (Pub. L. 91–190, title II, § 203, Jan. 1, 1970, 83 Stat. 855.)

§ 4344. Duties and functions.

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341 of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(Pub. L. 91–190, title II, § 204, Jan. 1, 1970, 83 Stat. 855.)

TRANSFER OF FUNCTIONS

So much of the functions of the Council on Environmental Quality under par. (4) of this section as pertains to ecological systems was transferred to the Administrator of the Environmental Protection Agency by 1970 Reorg. Plan No. 3, § 2(a)(5), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. —, set out under section 4321 of this title.

§ 4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives.

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(Pub. L. 91–190, title II, § 205, Jan. 1, 1970, 83 Stat. 855.)

REFERENCES IN TEXT

Executive Order numbered 11472, dated May 29, 1969, referred to in par. (1), is set out as a note under section 4321 of this title.

§ 4346. Tenure and compensation of members.

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates. The other members of the Council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates. (Pub. L. 91–190, title II, § 206, Jan. 1, 1970, 83 Stat. 856.)

REFERENCE IN TEXT

Levels II and IV of the Executive Schedule Pay Rates, referred to in text, are set out as sections 5313 and 5315, respectively, of Title 5, Government Organization and Employees.

§ 4347. Authorization of appropriation.

There are authorized to appropriated to carry out the provisions of this chapter not to exceed $300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter. (Pub. L. 91–190, title II, § 207, Jan. 1, 1970, 83 Stat. 856.)

Chapter 56.—ENVIRONMENTAL QUALITY IMPROVEMENT

Sec.
4371. Congressional findings, declarations, and purposes.
4372. Office of Environmental Quality.
(a) Establishment; Director; Deputy Director.
(b) Compensation of Deputy Director.
(c) Employment of personnel, experts, and consultants; compensation.
(d) Duties and functions of Director.
(e) Authority of Director to contract.
4373. Referral of Environmental Quality Reports to standing committees having jurisdiction.
4374. Authorization of appropriations.

§ 4371. Congressional findings, declarations, and purposes.

(a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b)(1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this chapter are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

(Pub. L. 91–224, title II, § 202, Apr. 3, 1970, 84 Stat. 114.)

REFERENCES IN TEXT

Pub. L. 91–190, referred to in subsec. (c), is classified to section 4321 et seq. of this title. See Short Title note set out under section 4321 of this title.

SHORT TITLE

Section 201 of Pub. L. 91–224 provided that:

"This title [enacting this chapter] may be cited as the 'Environmental Quality Improvement Act of 1970'."

§ 4372. Office of Environmental Quality.

(a) Establishment; Director; Deputy Director.

There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Compensation of Deputy Director.

The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) Employment of personnel, experts, and consultants; compensation.

The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this chapter and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of Title 5.

(d) Duties and functions of Director.

In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190.

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) Authority of Director to contract.

The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 529 of Title 31 and section 5 of Title 41 in carrying out his functions. (Pub. L. 91–224, title II, § 203, Apr. 3, 1970, 84 Stat. 114; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

Pub. L. 91–190, referred to in the text, is classified to to section 4321 et seq. of this title. See Short Title note set out under section 4321 of this title.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

§ 4373. Referral of Environmental Quality Reports to standing committees having jurisdiction.

Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report. (Pub. L. 91–224, title II, § 204, Apr. 3, 1970, 84 Stat. 115.)

REFERENCES IN TEXT

Pub. L. 91–190, referred to in the text, is classified to to section 4321 et seq. of this title. See Short Title note set out under section 4321 of this title.

§ 4374. Authorization of appropriations.

There are hereby authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91–190. (Pub. L. 91–224, title II, § 205, Apr. 3, 1970, 84 Stat. 115.)

REFERENCES IN TEXT

Pub. L. 91-190, referred to in the text, is classified to to section 4321 et seq. of this title. See Short Title note set out under section 4321 of this title.

CHAPTER 57.—ENVIRONMENTAL POLLUTION STUDY

Sec.
4391. Congressional statement of findings.
4392. Presidential study.
4393. Report to Congress by President.
4394. Supplemental reports by President.
4395. Authorization of appropriations.

§ 4391. Congressional statement of findings.

The Congress finds that there is general agreement that air, water, and other common environmental pollution may be hazardous to the health of individuals resident in the United States, but that despite the existence of various research papers and other technical reports on the health hazards of such pollution, there is no authoritative source of information about (1) the nature and gravity of these hazards, (2) the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals. (Pub. L. 91-515, title V, § 501(a), Oct. 30, 1970, 84 Stat. 1309.)

§ 4392. Presidential study.

The President shall immediately commence (1) a study of the nature and gravity of the hazards to human health and safety created by air, water, and other common environmental pollution, (2) a survey of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) a survey of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals. (Pub. L. 91-515, title V, § 501(b), Oct. 30, 1970, 84 Stat. 1310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4393 of this title.

§ 4393. Report to Congress by President.

The President shall, within nine months of October 30, 1970, transmit to the Congress a report of the study and surveys required by section 4392 of this title, including (1) his conclusions regarding the nature and gravity of the hazards to human health and safety created by environmental pollution, (2) his evaluation of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, (3) his assessment of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals, and (4) such legislative or other recommendations as he may deem appropriate. (Pub. L. 91-515, title V, § 501(c), Oct. 30, 1970, 84 Stat. 1310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4394 of this title.

§ 4394. Supplemental reports by President.

The President shall, within one year of his transmittal to the Congress of the report required by section 4393 of this title, and annually thereafter, supplement that report with such new data, evaluations, or recommendations as he may deem appropriate. (Pub. L. 91-515, title V, § 501(d), Oct. 30, 1970, 84 Stat. 1310.)

§ 4395. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter. (Pub. L. 91-515, title V, § 501(e), Oct. 30, 1970, 84 Stat. 1310.)

CHAPTER 58.—DISASTER RELIEF

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SUBCHAPTER II.—ADMINISTRATION OF DISASTER ASSISTANCE

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(c) Definition.
4483. Priority to applications for public facility and public housing assistance in major disaster areas.
4484. Relocation assistance.

SUBCHAPTER I.—GENERALLY

§ 4401. Congressional findings and declarations.

(a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency welfare services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this chapter, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

(Pub. L. 91–606, title I, § 101, Dec. 31, 1970, 84 Stat. 1744.)

EFFECTIVE DATE

Section 304 of Pub. L. 91–606 provided that: "This Act [enacting this chapter, amending sections 1706c, 1709, 1715*l* of Title 12, sections 241–1, 646 and 758 of Title 20, sections 165, 5064 and 5708 of Title 26, section 1820 of Title 38, section 461 of Title 40, section 1681 note of this title, repealing sections 1855 to 1855g, 1855aa, 1855aa note, 1855bb to 1855ii, 1855aaa, 1855aaa note, 1855bbb to 1855nnn of this title and section 1926(c) of Title 7, and enacting provisions set out as notes under this section and section 4434 of this title] shall take effect immediately upon its enactment [December 31, 1970] except that sections 226(b), 237, 241, 252(a), and 254 [sections 4436(b), 4456, 4460, 4482(a), and 4484 of this title, respectively] shall take effect as of August 1, 1969, and sections 231, 232, and 233 [sections 4451, 4452 of this title and amendments to section 1820 of Title 38, respectively] shall take effect as of April 1, 1970."

SHORT TITLE

Section 1 of Pub. L. 91–606 provided: "That this Act [enacting this chapter, amending sections 1706c, 1709, 1715*l* of Title 12, sections 241–1, 646 and 758 of Title 20, sections 165, 5064, and 5708 of Title 26, section 1820 of Title 38, section 461 of Title 40, section 1681 note of this title, repealing sections 1855 to 1855g, 1855aa, 1855aa note, 1855bb to 1855ii, 1855aaa, 1855aaa note, 185bbb to 1855nnn of this title and section 1926(c) of Title 7, and enacting provisions set out as notes under this section and section 4434 of this title] may be cited as the 'Disaster Relief Act of 1970'."

APPLICABLE LAW

Section 301(1) of Pub. L. 91–606 provided that: "Whenever reference is made in any provision of law (other than this Act) [this chapter], regulation, rule, record, or document of the United States to the Act of September 30, 1950 (64 Stat. 1109) [former sections 1855 to 1855g of this title], or any provision of such Act, such reference shall be deemed to be a reference to the Disaster Relief Act of 1970 [this chapter] or to the appropriate provision of the Disaster Relief Act of 1970 unless no such provision is included therein."

§ 4402. Definitions.

As used in this chapter—

(1) "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for Federal disaster assistance under this chapter and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

(7) "Director" means the Director of the Office of Emergency Preparedness.

(Pub. L. 91–606, title I, § 102, Dec. 31, 1970, 84 Stat. 1745.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SUBCHAPTER II.—ADMINISTRATION OF DISASTER ASSISTANCE

EX. ORD. NO. 11526. NATIONAL COUNCIL ON FEDERAL DISASTER ASSISTANCE

Ex. Ord. No. 11526, Apr. 22, 1970, 35 F.R. 6569, provided:

WHEREAS the Congress has enacted a number of statutory provisions authorizing Federal assistance to areas devastated by large-scale disasters; and

WHEREAS the Federal Disaster Act (P.L. 81–875), the Federal Disaster Relief Act of 1966 (P.L. 89–769), and the Disaster Relief Act of 1969 (P.L. 91–79) are, pursuant to delegations of authority by the President, administered by the Director of the Office of Emergency Preparedness; and

WHEREAS the Departments of Defense, the Interior, Commerce, Agriculture, Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, and the Small Business Administration and the Office of Economic Opportunity, also administer important disaster assistance programs; and

WHEREAS a prompt and effective Federal response to a major disaster requires coordinated action by all of the Federal agencies involved; and

WHEREAS Federal coordination will be served by the establishment of a National Council on Federal Disaster Assistance:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Council.* (a) There is hereby established the National Council on Federal Disaster Assistance (hereinafter referred to as the "Council") which shall be composed of the Director of the Office of Emergency Preparedness, who shall be the Chairman of the Council, and policy level representatives of the Departments of Defense, the Interior, Agriculture, Commerce, Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, and of the Small Business Administration and the Office of Economic Opportunity, and such other members as the President may from time to time designate.

(b) Representatives of other Federal departments or agencies, officials of State and local governments, and private citizens may be invited by the Chairman to participate in the deliberations of the Council.

SEC. 2. *Functions of the Council.* The Council shall advise and assist the Director of the Office of Emergency Preparedness in:

(a) Insuring that Federal agencies furnish necessary assistance following a large-scale disaster on a priority basis to the Federal Coordinating Officer appointed by the President to operate under the Director, Office of Emergency Preparedness, pursuant to Section 9 of the Disaster Relief Act of 1969;

(b) Developing policies and programs to provide a strong and integrated total Federal disaster assistance effort;

(c) Stimulating cooperation and the sharing of data, views and information concerning disaster assistance among Federal agencies, State and local governments, and private organizations having disaster assistance responsibilities and interests;

(d) Facilitating cooperation among Federal, State, and local governments with special concern for the maintenance of local initiative and decision making with respect to emergency restoration and rebuilding programs;

(e) Promoting the participation of Federal agencies in providing Federal assistance for rebuilding efforts;

(f) Encouraging research on means of preventing disasters and ameliorating the effects of those that occur;

(g) Reviewing, from time to time, the effectiveness of the Federal disaster assistance programs and suggesting needed changes.

SEC. 3. *Assistance to the Council.* Consistent with law, the Office of Emergency Preparedness shall provide staff and other assistance to the Council, and Executive departments and agencies shall furnish to the Council such available information as the Council may require in performance of its functions.

SEC. 4. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency or officer, or any function vested by law in, or assigned pursuant to law to, any Federal agency or officer, to the authority of the Council or of any other agency or officer or as abrogating any such function in any manner.

RICHARD NIXON

EX. ORD. NO. 11575. ADMINISTRATION OF CHAPTER

Ex. Ord. No. 11575, Dec. 31, 1970, 36 F.R. 37, provided:

By virtue of the authority vested in me by the Disaster Relief Act of 1970, hereinafter referred to as the Act [this chapter], and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The authorities vested in the President by section 102(1) of the Act [section 4402(1) of this title] to declare a major disaster, by section 251 of the Act [section 4481 of this title] to provide for the restoration of Federal facilities, and by section 253 of the Act [section 4483 of this title] to prescribe time limits for granting priorities for certain public facilities and certain public housing assistance are reserved to the President.

(b) Except as otherwise provided in subsections (a), (c), and (d) of this section, the Director of the Office of Emergency Preparedness is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by the Act.

(c) The Secretary of Defense is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 210 of the Act [section 4420 of this title] concerning the utilization and availability of the civil defense communications system for the purpose of disaster warnings.

(d) The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 238 of the Act [section 4457 of this title] concerning food coupons and surplus commodities.

SEC. 2. The Director of the Office of Emergency Preparedness may delegate or assign to the head of any agency of the executive branch of the Government, subject to the consent of the agency head concerned in each case, any authority or function delegated or assigned to the Director by the provisions of this order. Any such head of agency may redelegate any authority or function so delegated or assigned to him by the Director to any officer or employee subordinate to such head of agency whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 3. Rules, regulations, procedures, and documents issued under the authority of the Act of September 30, 1950 (64 Stat. 1109); the Disaster Relief Act of 1966 (80 Stat. 1316); and the Disaster Relief Act of 1969 (83 Stat. 125) shall remain in effect for purposes of the Act unless otherwise modified, superseded, or revoked by the appropriate Federal official, and, unless inappropriate, all references in those rules, regulations, procedures, and documents or in any Executive order or other document to the Act of September 30, 1950, the Disaster Relief Act of 1966, or the Disaster Relief Act of 1969 shall be deemed to be references to the Act.

SEC. 4. In order to assure the most effective utilization of the personnel, equipment, supplies, facilities, and other resources of Federal agencies pursuant to the Act, agencies, shall make and maintain suitable plans and preparations in anticipation of their responsibilities in the

event of a major disaster. The Director of the Office of Emergency Preparedness shall coordinate, on behalf of the President, such plans and preparations.

SEC. 5. Executive Order No. 10427 of January 16, 1953, Executive Order No. 10737 of October 29, 1957, and Executive Order No. 11495 of November 18, 1969, are hereby revoked. Unless inappropriate, any reference to those Executive orders in any rule, regulation, procedure, document, or other Executive order, shall be deemed to be a reference to this Executive order.

RICHARD NIXON

§ 4411. Federal coordinating officer; appointment; functions.

(a) Immediately upon his designation of a major disaster area, the President shall appoint a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this chapter, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations which agree to operate under his advice or direction, except that nothing contained in this chapter shall limit or in any way affect the responsibilities of the American National Red Cross under chapter 1 of Title 36; and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this chapter, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(Pub. L. 91–606, title II, § 201, Dec. 31, 1970, 84 Stat. 1746.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4412 of this title.

§ 4412. Emergency support teams; detail of personnel of Federal department or agency.

The Director is authorized to form emergency support teams of Federal personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 4411(b) of this title. Upon request of the Director, the head of any Federal department or agency is authorized to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the discretion of the Director, such personnel within the administrative jurisdiction of the head of the Federal department or agency as the Director may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status. (Pub. L. 91–606, title II, § 202, Dec. 31, 1970, 84 Stat. 1746.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4413. Cooperation of Federal agencies in rendering emergency assistance.

(a) Scope of services.

In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government to State and local governments for use or distribution by them for the purposes of this chapter; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage in accordance with section 4434 of this title;

(B) making repairs to, restoring to service, or replacing public facilities (including street, road, and highway facilities) of State and local governments damaged or destroyed by a major disaster, except that the Federal contributions therefor shall not exceed the net cost of restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4)

(b) Other Federal assistance not precluded.

Emergency work performed under subsection (a)(4) of this section shall not preclude Federal assistance under any other section of this chapter.

(c) Reimbursement.

Federal agencies may be reimbursed for expenditures under this chapter from funds appropriated for the purposes of this chapter. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) Liability of Federal Government.

The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary

function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) Employment of temporary personnel; incurring of obligations.

In carrying out the purposes of this chapter, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III [1] of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or othrwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(f) Presidential powers; rules and regulations.

In the interest of providing maximum mobilization of Federal assistance under this chapter, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources in accordance with the authority, herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency as he may designate.

(g) Presidential review of programs.

The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

(h) Reports to Congress.

The Director of the Office of Emergency Preparedness is authorized and directed to make in cooperation with the heads of other affected Federal and State agencies, a full and complete investigation and study for the purpose of determining what additional or improved plans, procedures, and facilities are necessary to provide immediate effective action to prevent or minimize losses of publicly or privately owned property and personal injuries or deaths which could result from fires (forest and grass), earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides, and floods, which are or threaten to become major disasters. Not later than one year after December 31, 1970, and from time to time, the Director of the Office of Emergency Preparedness shall report to Congress the findings of this study and investigation together with his recommendations with respect thereto. (Pub. L. 91–606, title II, § 203, Dec. 31, 1970, 84 Stat. 1747.)

EFFECTIVE DATE

Section to take effect on Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4457 of this title.

§ 4414. Use of local firms and individuals.

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area. (Pub. L. 91–606, title II, § 204, Dec. 31, 1970, 84 Stat. 1748.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4415. Federal grant-in-aid programs.

Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such administrative procedural conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster. (Pub. L. 91–606, title II, § 205, Dec. 31, 1970, 84 Stat. 1748.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4416. State disaster plans.

(a) Contents.

The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) Grants for development; limits.

The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

[1] So in original. Probably meant subchapter III of chapter 53 of Title 5.

(c) Designation of State agency.

Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 4411 of this title.

(d) Reports to President and Congress.

From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) Grants for maintenance; limits.

The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining, and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State. (Pub. L. 91–606, title II, § 206, Dec. 31, 1970, 84 Stat. 1749.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4417. Use and coordination of relief organizations.

(a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 4418 and 4419 of this title, and such other regulations as the Director may require. (Pub. L. 91–606, title II, § 207, Dec. 31, 1970, 84 Stat. 1749.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4419 of this title.

§ 4418. Duplication of benefits.

(a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this chapter for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive. (Pub. L. 91–606, title II, § 208, Dec. 31, 1970, 84 Stat. 1750.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4417, 4456 of this title.

§ 4419. Nondiscrimination in disaster assistance.

(a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 4417 of this title, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts. (Pub. L. 91–606, title II, § 209, Dec. 31, 1970, 84 Stat. 1750.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4417 of this title.

§ 4420. Disaster warnings.

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 2281(c) of Title 50, Appendix, for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters. (Pub. L. 91-606, title II, § 210, Dec. 31, 1970, 84 Stat. 1750.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

§ 4431. Predisaster assistance.

If the President determines that a major disaster is imminent, he is authorized to use Federal departments, agencies, and instrumentalities, and all other resources of the Federal Government to avert or lessen the effects of such disaster before its actual occurrence. (Pub. L. 91-606, title II, § 221, Dec. 31, 1970, 84 Stat. 1751.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

§ 4432. Emergency communications.

The Director is authorized during, or in anticipation of, an emergency to establish temporary communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate. (Pub. L. 91-606, title II, § 222, Dec. 31, 1970, 84 Stat. 1751.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

§ 4433. Emergency transportation.

The Director is authorized to provide temporary public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible. (Pub. L. 91-606, title II, § 223, Dec. 31, 1970, 84 Stat. 1751.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

§ 4434. Removal of debris; grants to States; indemnity of Federal Government from liability.

(a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters.

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal. (Pub. L. 91-606, title II, § 224, Dec. 31, 1970, 84 Stat. 1751.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

USE OF FUNDS ALLOCATED BEFORE DEC. 31, 1970

Section 303 of Pub. L. 91-606 provided that: "Funds allocated before the date of enactment of this Act [Dec. 31, 1970] under a Federal-State Disaster Agreement for the relief of a major disaster as defined in the Act of September 30, 1950 (Public Law 875, Eighty-first Congress) [former section 1855 et seq. of this title], and not expended on the date of enactment of this Act may be used by the State to make payments to any person for reimbursement of expenses actually incurred by such person in the removal of debris from community areas, but not to exceed the amount that such expenses exceed the salvage value of such debris, or in otherwise carrying out the purposes of such Act of September 30, 1950, or this Act [this chapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4413 of this title.

§ 4435. Fire suppression.

The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster. (Pub. L. 91-606, title II, § 225, Dec. 31, 1970, 84 Stat. 1751.)

EFFECTIVE DATE.

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

§ 4436. Temporary housing assistance.

(a) Regulations for rent and sales; sites for mobile and prefabricated homes.

The Director is authorized to provide temporary housing or other emergency shelter, including, but not limited to, mobile homes or other readily fabricated dwellings for those who, as a result of such major disaster, require temporary housing or other emergency shelter, except that for the first twelve months of occupancy no rentals shall be established for any such accommodations, thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Notwithstanding any other provision of law, any such emergency housing acquired by purchase may be sold directly to individuals and families who are occupants thereof at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide

other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

(b) Temporary mortgage or rent payments; reemployment assistance.

The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The President is authorized for the purposes of this subsection and in furtherance of the purposes of section 4459 of this title, to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster. (Pub. L. 91–606, title II, § 226, Dec. 31, 1970, 84 Stat. 1751.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, except that subsec. (b) shall take effect as of Aug. 1, 1969, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4451. Small business disaster loans.

In the administration of the disaster loan program under section 636(b)(1), (2), and (4) of Title 15, in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator, the Small Business Administration—

(1) to the extent such loss or damage or injury is not compensated for by insurance or otherwise, (A) shall, on the part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, except that this clause (A) shall apply only to loans made to cover losses and damage and injury resulting from major disasters as determined by the President, and (B) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan except that any such deferred payments shall bear interest at the rate determined under section 4453 of this title.

(2) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property damaged, or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(3) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. Any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

(Pub. L. 91–606, title II, § 231, Dec. 31, 1970, 84 Stat. 1752.)

EFFECTIVE DATE

Section effective Apr. 1, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4453, 4454 of this title.

§ 4452. Emergency farm loans.

In the administration of the emergency loan program under sections 1961 to 1967 of Title 7, and the rural housing loan program under section 1472 of this title, in the case of loss or damage, resulting from a major disaster as determined by the President, or a natural disaster as determined by the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, except that this clause (A) shall apply only to loans made to cover losses and damage resulting from major disasters as determined by the President, and (B) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan, except that any such deferred payments shall bear interest at the rate determined under section 4453 of this title.

(2) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(3) may, in the case of the total destruction or substantial property damage of homes or farm service buildings and related structures and equipment, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. Any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

(Pub. L. 91–606, title II, § 232, Dec. 31, 1970, 84 Stat. 1753.)

EFFECTIVE DATE

Section effective Apr. 1, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4453, 4454 of this title.

§ 4453. Disaster loan interest rates.

Any loan made under sections 4451, and 4452 of this title shall not exceed the current cost of repairing or replacing the disaster injury, loss, or damage in conformity with current codes and speci-

fications. Any loan made under sections 4451, 4452, 4455(b) and 4456 of this title shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 2 per centum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum. (Pub. L. 91–606, title II, § 234, Dec. 31, 1970, 84 Stat. 1754.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4451, 4452, 4456 of this title.

§ 4454. Age of applicant for loans.

In the administration of any Federal disaster loan program under the authority of section 4451, 4452 of this title, or 233 of this Act, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan. (Pub. L. 91–606, title II, § 235, Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

Section 233 of this Act, referred to in text, amended section 1820(a)(2), (f) of Title 38, Veterans' Benefits.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4455. Rescheduling and refinancing of federal loans.

(a) In addition to the loan extension authority provided in section 912 of Title 7, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship. (Pub. L. 91–606, title II, § 236, Dec. 31, 1970, 84 Stat. 1754.)

REFERENCES IN TEXT

The revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, referred to in subsec. (b), is the fund referred to in section 1701g–5 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4453 of this title.

§ 4456. Aid to major sources of employment.

(a) The Small Business Administration in the case of a nonagricultural enterprise, and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has constituted a major source of employment in an area suffering a major disaster and which is no longer in substantial operation as a result of such disaster, a loan in such amount as may be necessary to enable such enterprise to resume operations in order to assist in restoring the economic viability of the disaster area. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulations promulgated pursuant thereto.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance, except that such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 4418 of this title. Any loan made under this section shall be subject to the interest requirements of section 4453 of this title, but the President, if he deems it necessary, may defer payments of principal and interest for a period not to exceed three years after the date of the loan. Any such deferred payments shall bear interest at the rate determined under section 4453 of this title. (Pub. L. 91–606, title II, § 237, Dec. 31, 1970, 84 Stat. 1754.)

EFFECTIVE DATE

Section effective Aug. 1, 1969, see, section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4453 of this title.

§ 4457. Food stamp and surplus commodities program.

(a) Persons eligible; terms and conditions.

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of section 4413 of this title.

(b) Duration of assistance; factors considered.

The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he

deems appropriate, including the consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

(c) Food stamp provisions unaffected.

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in a major disaster area. (Pub. L. 91–606, title II, § 238, Dec. 31, 1970, 84 Stat. 1755.)

REFERENCES IN TEXT

Food Stamp Act of 1964, referred to in subsecs. (a) and (c), is Pub. L. 88–525, which is classified to section 2011 et seq. of Title 7, Agriculture.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4458. Legal services.

Whenever the Director determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this chapter, the Director shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations. (Pub. L. 91–606, title II, § 239, Dec. 31, 1970, 84 Stat. 1755.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4459. Unemployment assistance; limitation of amount and duration to payments under State unemployment compensation; reduction of payments.

The President is authorized to provide to any individual unemployed as a result of a major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall not exceed to[1] maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred, and the amount of assistance under this section to any such individual shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such period of unemployment. (Pub. L. 91–606, title II, § 240, Dec. 31, 1970, 84 Stat. 1755.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4436 of this title.

§ 4460. Community disaster grants to local governments; limits; computation of loss.

The President is authorized to make grants to any local government which, as the result of a major disaster, has suffered a substantial loss of property tax revenue (both real and personal). Grants made under this section may be made for the tax year in which the disaster occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all property tax revenues received by the local government during the three-tax-year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received by the local government for the tax year in which the disaster occurred and for each of the two tax years following the major disaster but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of the disaster without reduction, in order to determine the property tax revenues which would have been received by the local government but for such reduction. (Pub. L. 91–606, title II, § 241, Dec. 31, 1970, 84 Stat. 1756.)

EFFECTIVE DATE

Section effective Aug. 1, 1969, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4461. Timber sale contracts.

(a) Cost-sharing arrangement.

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one of three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority.

If the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding contrary provisions therein.

(c) Public notice of sale.

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of Title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

[1] So in original.

(d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber.

The President, when he determines it to be in the public interest, and acting through the Director of Emergency Preparedness, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber. (Pub. L. 91–606, title II, § 242, Dec. 31, 1970, 84 Stat. 1756.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4462. Standards for residential structure restoration.

No loan or grant made by any relief organization operating under the supervision of the Director, for the repair, restoration, reconstruction, or replacement of any residential structure located in a major disaster area shall be made unless such structure will be repaired, restored, reconstructed, or replaced in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable building codes and specifications. (Pub. L. 91–606, title II, § 243, Dec. 31, 1970, 84 Stat. 1757.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4481. Repair and restoration of damaged United States facilities; availability of funds.

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose. (Pub, L. 91–606, title II, § 251, Dec. 31, 1970, 84 Stat. 1757.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4482. Restoration of State and local public facilities.

(a) Eligible costs.

The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards.

(b) Public facilities under completion at the time of disaster.

In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) Definition.

For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other public building, structure, or system, other than one used exclusively for recreation purposes. (Pub. L. 91–606, title II, § 252, Dec. 31, 1970, 84 Stat. 1757.)

EFFECTIVE DATE

Section effective Dec. 31, 1970, except that subsec. (a) shall take effect as of Aug. 1, 1969, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4483. Priority to applications for public facility and public housing assistance in major disaster areas.

In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 462 of Title 40 for assistance in public works planning;

(4) section 3102 of this title providing for grants for public facilities; or

(5) section 1926 of Title 7.

(Pub. L. 91–606, title II, § 253, Dec. 31, 1970, 84 Stat. 1758.)

REFERENCES IN TEXT

Title II of the Housing Amendments of 1955, referred to in clause (1), is classified to chapter SB of this title.

The United States Housing Act of 1937, referred to in clause (2), is classified to chapter 8 of this title.

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 4401 of this title.

§ 4484. Relocation assistance.

Notwithstanding any other provision of law, no person otherwise eligible for any kind of relocation assistance payment authorized under section 1465 of this title shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to reoccupy property from which he was displaced by such disaster. (Pub. L. 91-606, title II, § 254, Dec. 31, 1970, 84 Stat. 1758.)

EFFECTIVE DATE

Section effective Aug. 1, 1969, see section 304 of Pub. L. 91-606, set out as a note under section 4401 of this title.

CHAPTER 59.—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

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§ 4501. Congressional statement of purpose.

It is the policy of the Congress and the purpose of this chapter to provide for the development of a national urban growth policy and to encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our States, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas which demonstrate a special potential for accelerated growth; to encourage the prudent use and conservation of our natural resources; and to encourage and support development which will assure our communities of adequate tax bases, community services, job opportunities, and well-balanced neighborhoods in socially, economically, and physically attractive living environments. (Pub. L. 91-609, title VII, § 701 (b), Dec. 31, 1970, 84 Stat. 1791.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read "this title" in the original, meaning Urban Growth and New Community Development Act of 1970, for classification of which in the Code see Short Title note under this section.

SHORT TITLE

Section 701(a) of Pub. L. 91-609 provided that: "This title [which enacted this chapter and section 461(j) of Title 40, amended sections 1453(a)(1), 1460(c)(7), and 1492(b)(4) of this title, sections 371 and 1464(c) twelfth par. of Title 12, and section 461(a)(4), (b) of Title 40, and enacted provisions set out as a note under section 1453 of this title] may be cited as the 'Urban Growth and New Community Development Act of 1970'."

PART A.—DEVELOPMENT OF A NATIONAL URBAN GROWTH POLICY

§ 4502. Congressional findings and declaration of policy.

(a) The Congress finds that the rapid growth of urban population and uneven expansion of urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities, has created an imbalance between the Nation's needs and resources and seriously threatens our physical environment, and that the economic and social development of the Nation, the proper conservation of our natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population, economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development which adversely affect the environment and wastefully use our natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban growth policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban growth policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban growth and shall provide a framework for development of interstate, State, and local growth and stabilization policy.

(d) The Congress further declares that the national urban growth policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range

of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.

(Pub. L. 91-609, title VII, § 702, Dec. 31, 1970, 84 Stat. 1791.)

§ 4503. Urban growth report; supplementary reports, transmittal to Congress; advisory board, establishment.

(a) In order to assist in the development of a national urban growth policy, the President shall utilize the capacity of his office, adequately organized and staffed for the purpose, through an identified unit of the Domestic Council, and of the departments and agencies within the executive branch to collect, analyze, and evaluate such statistics, data, and other information (including demographic, economic, social, land use, environmental, and governmental information) as will enable him to transmit to the Congress, during the month of February in every even-numbered year beginning with 1972, a Report on Urban Growth for the preceding two calendar years which shall include—

(1) information and statistics describing characteristics of urban growth and stabilization and identifying significant trends and developments;

(2) a summary of significant problems facing the United States as a result of urban growth trends and development;

(3) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the national urban growth policy;

(4) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(5) a review of State, local, and private policies, plans, and programs relevant to such policy;

(6) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(7) recommendations for programs and policies for carrying out such policy, including such legislation and administrative actions as may be deemed necessary and desirable.

(b) The President may transmit from time to time to the Congress supplementary reports on urban growth which shall include such supplementary and revised recommendations as may be appropriate.

(c) To assist in the preparation of the Report on Urban Growth and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban growth and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports. (Pub. L. 91-609, title VII, § 703, Dec. 31, 1970, 84 Stat. 1792.)

PART B.—DEVELOPMENT OF NEW COMMUNITIES

§ 4511. Congressional findings and purpose; new community development; Federal financial assistance; Federal government, organizational improvement.

(a) The Congress finds that this Nation is likely to experience during the remaining years of this century a population increase of about seventy-five million persons.

(b) The Congress further finds that continuation of established patterns of urban development, together with the anticipated increase in population, will result in (1) inefficient and wasteful use of land resources which are of national economic and environmental importance; (2) destruction of irreplaceable natural and recreational resources and increasing pollution of air and water; (3) diminished opportunity for the private homebuilding industry to operate at its highest potential capacity in providing good housing needed to serve the expanding population and to replace substandard housing; (4) costly and inefficient public facilities and services at all levels of government; (5) unduly limited options for many of our people as to where they may live, and the types of housing and environment in which they may live; (6) failure to make the most economic use of present and potential resources of many of the Nation's smaller cities and towns, including those in rural and economically depressed areas, and decreasing employment and business opportunities for their residents; (7) further lessening of employment and business opportunities for the residents of central cities and of the

ability of such cities to retain a tax base adequate to support vital services for all their citizens, particularly the poor and disadvantaged; (8) further separation of people within metropolitan areas by income and by race; (9) further increases in the distances between the places where people live and where they work and find recreation; and (10) increased cost and decreased effectiveness of public and private facilities for urban transportation.

(c) The Congress further finds that better patterns of urban development and revitalization are essential to accommodate future population growth; to prevent further deterioration of the Nation's physical and social environment; and to make positive contributions to improving the overall quality of life within the Nation.

(d) The Congress further finds that the national welfare requires the encouragement of well-planned, diversified, and economically sound new communities, including major additions to existing communities, as one of several essential elements of a consistent national program for bettering patterns of development and renewal.

(e) The Congress further finds that desirable new community development on a significant national scale has been prevented by difficulties in (1) obtaining adequate financing at moderate cost for enterprises which involve large initial capital investment, extensive periods before investment can be returned, and irregular patterns of returns; (2) the timely assembly of sufficiently large sites in economically favorable locations at reasonable cost; and (3) making necessary arrangements, among all private and public organizations involved, for providing site and related improvements (including streets, sewer and water facilities, and other public and community facilities) in a timely and coordinated manner.

(f) It is, therefore, the purpose of this part to provide private developers and State and local public bodies and agencies (including regional or metropolitan public bodies and agencies) with financial and other assistance necessary for encouraging the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner which will rely to the maximum extent on private enterprise; strengthen the capacity of State and local governments to deal with local problems; preserve and enhance both the natural and urban environment; increase for all persons, particularly members of minority groups, the available choices of locations for living and working, thereby providing a more just economic and social environment; encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities; assist in the efficient production of a steady supply of residential, commercial, and industrial building sites at reasonable cost; increase the capability of all segments of the home-building industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth; help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation; and encourage desirable innovation in meeting domestic problems whether physical, economic, or social. It is also the purpose of this part to improve the organizational capacity of the Federal Government to carry out programs of assistance for the development of new communities and the revitalization of the Nation's urban areas. (Pub. L. 91-609, title VII, § 710, Dec. 31, 1970, 84 Stat. 1793.)

§ 4512. Definitions.

As used in this part—

(a) The term "new community development program" means a program which is intended to result in a newly built community or a major addition to an existing community and which meets the eligibility standards set forth in section 4513 of this title.

(b) The term "private new community developer" means any private entity organized in a form satisfactory to the Secretary for carrying out one or more new community development programs.

(c) The term "State land development agency" means any State or local public body or agency with authority to act as developer in carrying out one or more new community development programs.

(d) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

(e) The term "local public body or agency" means any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, or a combination of such bodies or agencies.

(f) The term "land development" means the process of clearing and grading land, making, installing, or constructing waterlines and water supply installations, sewerlines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (2) is to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

(g) The term "actual cost" means the costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this chapter. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architect's fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines

that there is an identity of interest between the developer and a contractor, there may be included as a part of actual cost an allowance for the contractor's profit or risk an amount deemed reasonable by the Secretary.

(h) The term "Secretary" means the Secretary of Housing and Urban Development.

(i) The term "Community Development Corporation" means the corporation established within the Department of Housing and Urban Development under section 4532 of this title. (Pub. L. 91–609, title VII, § 711, Dec. 31, 1970, 84 Stat. 1795.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (g), read "this Act" in the original, probably meaning Urban Growth and New Community Development Act of 1970, Title VII of Pub. L. 91–609, classified to this chapter and not Housing and Urban Development Act of 1970, Pub. L. 91–609, for classification of which in the Code see Short Title note under section 1701s of Title 12, Banks and Banking.

§ 4513. Eligible new community development.

(a) A new community development program is eligible for assistance under this part only if the Secretary determines that the program (or the new community it contemplates)—

(1) will provide an alternative to disorderly urban growth, helping preserve or enhance desirable aspects of the natural and urban environment or so improving general and economic conditions in established communities as to help reverse migration from existing cities or rural areas;

(2) will be economically feasible in terms of economic base or potential for economic growth;

(3) will contribute to the welfare of the entire area which will be substantially affected by the program and of which the land to be developed is a part;

(4) is consistent with comprehensive planning, physical and social, determined by the Secretary to provide an adequate basis for evaluating the new community development program in relation to other plans (including State, local, and private plans) and activities involving area population, housing and development trends, and transportation, water, sewerage, open space, recreation, and other relevant facilities;

(5) has received all governmental reviews and approvals required by State or local law, or by the Secretary;

(6) will contribute to good living conditions in the community, and that such community will be characterized by well balanced and diversified land use patterns and will include or be served by adequate public, community, and commercial facilities (including facilities needed for education, health and social services, recreation, and transportation) deemed satisfactory by the Secretary;

(7) makes substantial provision for housing within the means of persons of low and moderate income and that such housing will constitute an appropriate proportion of the community's housing supply; and

(8) will make significant use of advances in design and technology with respect to land utilization, materials and methods of construction, and the provision of community facilities and services.

(b) A new community development program approved for assistance under this part shall be undertaken by a private new community developer or State land development agency approved by the Secretary on the basis of financial, technical, and administrative ability which demonstrates capacity to carry out the program with reasonable assurance of its completion. (Pub. L. 91–609, title VII, § 712, Dec. 31, 1970, 84 Stat. 1796.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4512, 4528 of this title.

§ 4514. Guarantees; prohibition; grants; limitations.

(a) The Secretary (acting through the Community Development Corporation) is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by or on behalf of private new community developers and State land development agencies for the purpose of financing real property acquisition and land development and to compensate for the use of real property or the removal of liens or encumbrances on such property, pursuant to the new community development programs approved by the Secretary. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions as he may prescribe consistent with the limitations and conditions contained in section 4517 of this title; except that no obligation of any State land development agency shall be guaranteed under this section if the income from such obligation is exempt from Federal taxation. The Secretary is authorized to make grants to any State land development agency the obligations of which are guaranteed under this section in amounts estimated by him not to exceed the difference between the interest paid on such obligations and the interest on similar obligations the income from which is exempt from Federal taxation.

(b) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(c) The outstanding bonds, debentures, notes or other obligations guaranteed under this section with respect to a single new community development program shall involve a principal obligation in an amount (1) in the case of a State land development agency, not exceeding 100 per centum of the sum of the Secretary's estimate of the value of the real property before development and his estimate of the actual cost of the land development, or (2) in the case of a private new community developer, not exceeding the sum of 80 per centum of the Secretary's estimate of the value of the real property before development and 90 per centum of his estimate of the actual cost of the land development.

(d) The outstanding principal obligations guaranteed under this section with respect to a single new community development program shall at no time exceed $50,000,000.

(e) The aggregate of the outstanding principal obligations guaranteed under this section shall at no time exceed $500,000,000. (Pub. L. 91–609, title VII, § 713, Dec. 31, 1970, 84 Stat. 1796.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4518 of this title.

§ 4515. Loans; repayment; interest rate; limitations.

(a) The Secretary (acting through the Community Development Corporation) is authorized, subject to the limitations and conditions contained in section 4517 of this title, to make and enter into agreements to make loans to or on behalf of private new community developers and State land development agencies for the purpose of assisting them to make interest payments on indebtedness incurred by them to finance new community development programs approved by him. Loans under this section shall be in amounts which do not exceed the amount of interest the Secretary estimates is payable on indebtedness attributable to land acquisition or land development and shall be made only with respect to interest payments on indebtedness outstanding during an initial development period (not to exceed fifteen years) which the Secretary estimates to be prior to the time when land marketing activity is of sufficient volume to permit continued development under the new community development program without the benefit of further loans under this section.

(b) The Secretary shall require that loans under this section shall be repaid, with interest and on terms and conditions satisfactory to him, commencing at such time as development progress and marketing under the new community development program permit such repayment, but not later than fifteen years after the date the loan is made. Such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum.

(c) The principal amount of the loans outstanding at any time under this section with respect to a single new community development program shall not exceed $20,000,000.

(d) The aggregate principal amount of the loans outstanding under this section shall at no time exceed $240,000,000. (Pub. L. 91–609, title VII, § 714, Dec. 31, 1970, 84 Stat. 1797.)

§ 4516. Public service grants; authorization of appropriations.

In addition to providing assistance under the preceding sections, the Secretary (acting through the Community Development Corporation) may make public service grants (in such amounts and on such terms and conditions as he deems appropriate) to a State land development agency or to the State or local public body having responsibility for providing the services involved to cover the cost of providing during an initial period (not exceeding three years) essential public services (including educational, health, and safety services) which the Secretary deems necessary adequately to serve the needs of the residents of the development prior to completion of permanent arrangements for the provisions of such services. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. (Pub. L. 91–609, title VII, § 715, Dec. 31, 1970, 84 Stat. 1798.)

§ 4517. Limitations on guarantees and loans.

(a) No guarantee or loan shall be made under this part unless the Secretary has determined that the new community development program represents an acceptable financial risk to the United States, taking into consideration (1) the financial and security interests of the United States, including the manner in which the developer proposes to finance and schedule land acquisition, land development, and marketing, and (2) the public purposes of this part and the special problems involved in financing new communities, including (i) the large amount of initial capital required to finance sound new communities, (ii) the extended period before initial returns can be expected, and (iii) the irregular pattern of cash returns characteristic of this type of development.

(b) The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations guaranteed, or with respect to which interest loans are made, under this part will—

(1) be issued to investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements or other matters.

(Pub. L. 91–609, title VII, § 716, Dec. 31, 1970, 84 Stat. 1798.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4514, 4515, 4528 of this title.

§ 4518. Revolving fund; establishment; expenses, payment.

(a) The Secretary is authorized to establish a revolving fund to provide for (1) the timely payment of any liabilities incurred as the result of guarantees or grants under section 4514 of this title; (2) making loans authorized under this part; (3) payment of obligations issued to the Secretary of the Treasury under subsection (b) of this section; and (4) any other program expenditures, including administrative and nonadministrative expenses. Such revolving fund shall be comprised of (1) receipts from fees

and charges; (2) recoveries under security, subrogation, and other rights; (3) repayments, interest income, and any other receipts obtained in connection with guarantees or loans under this part; (4) proceeds of the obligations issued to the Secretary of the Treasury pursuant to subsection (b) of this section; and (5) such sums, which are hereby authorized to be appropriated, as may be required for the payment of the obligations issued to the Secretary of the Treasury for the purpose of making grants to State land development agencies under section 4514 of this title, and for other purposes under this part. Money in the revolving fund not currently needed for the purpose of this part shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(b) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out the functions authorized by this part. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations, hereunder.

(c) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this section, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights. (Pub. L. 91–609, title VII, § 717, Dec. 31, 1970, 84 Stat. 1798.)

REFERENCES IN TEXT

The Second Liberty Bond Act referred to in subsec. (b), is act Sept. 24, 1917, 40 Stat. 288, as amended, which is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c—1, sections 757—2, 757c—3, 757c—4, 757d, 757e, 758, 760, 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

That Act, referred to in subsec. (b), means the Second Liberty Bond Act.

§ 4519. Supplementary grants for public facilities; new community assistance project; authorization of appropriations.

(a) The Secretary is authorized to make supplementary grants to any State or local public body or agency carrying out a new community assistance project, as defined in subsection (c) of this section, if the Secretary determines that such project is necessary or desirable for carrying out a new community development program. In no case shall any grant under this section exceed 20 per centum of the cost of the new community assistance project for which the grant is made; and in no case shall the total Federal contributions to the cost of such project be more than 80 per centum.

(b) In carrying out his authority under this section, the Secretary shall, with respect to any new community assistance project assisted by grants administered by a Federal department or agency other than the Department of Housing and Urban Development, consult with such department or agency concerning the project; and he shall, for the purpose of subsection (a) of this section, accept the certification of such department or agency as to the cost of such project.

(c) For the purposes of this section, a "new community assistance project" is a project assisted by grants under section 3 of the Urban Mass Transportation Act of 1964; section 120(a) of title 23, United States Code; section 19 of the Airport and Airway Development Act of 1970; title VI of the Public Health Service Act; title II of the Library Services and Construction Act; section 5 of the Land and Water Conservation Fund Act of 1965; title VII of the Housing Act of 1961; section 702 or 703 of the Housing and Urban Development Act of 1965; section 8 of the Federal Water Pollution Control Act; section 306(a)(2) of the Consolidated Farmers Home Administration Act; section 103 or 104 of the Higher Education Facilities Act of 1963; or section 101(a)(1) of the Public Works and Economic Development Act of 1965 with respect to projects of a type eligible for assistance under any of the other provisions of law listed in this subsection.

(d) There are authorized to be appropriated for supplementary grants under this section not to exceed $36,000,000 for the fiscal year ending June 30, 1971, not to exceed $66,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, and not to exceed such sums as may be necessary for any fiscal year commencing after June 30, 1973. Any amount so appropriated shall remain available until expended, and any amounts authorized for any fiscal year but not appropriated may be appropriated for any succeeding fiscal year. In addition, the amounts authorized to be appropriated for grants under section 412 of the Housing and Urban Development Act of 1968 and the amounts appropriated thereunder shall be available for carrying out this section and shall remain available until appropriated and expended. (Pub. L. 91–609, title VII, § 718, Dec. 31, 1970, 84 Stat. 1799.)

REFERENCES IN TEXT

The provisions, referred to in subsec. (c), are classified to the Code, as follows:

Section 3 of Urban Mass Transportation Act of 1964 (Pub. L. 88–365, July 9, 1964, 78 Stat. 302, as amended) is classified to section 1602 of Title 49, Transportation.

Section 19 of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, Title I, May 21, 1970, 84 Stat. 219) is classified to section 1719 of Title 49.

Title VI of Public Health Service Act (Act July 1, 1944, c. 373, 58 Stat. 682, as amended), is classified to section 291 et seq. of this title.

Title II of Library Services and Construction Act (Act June 19, 1956, c. 407, 70 Stat. 293, as amended), is classified to section 355a et seq. of Title 20, Education.

Section 5 of Land and Water Conservation Fund Act of 1965 (Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897), is classified to section 4601–8 of Title 16, Conservation.

Title VII of Housing Act of 1961 (Pub. L. 87–70, June 1961, 75 Stat. 149, as amended), is classified to chapter 8C (section 1500 et seq.) of this title.

Section 702 and 703 of Housing and Urban Development Act of 1965 (Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, as amended) are classified to sections 3102 and 3103 of this title.

Section 8 of Federal Water Pollution Control Act (Act June 30, 1948, c. 758, 62 Stat. 1155, as amended) is classified to section 1158 of Title 33, Navigation and Navigable Waters.

Section 306(a)(2) of Consolidated Farmers Home Administration Act (Pub. L. 87–128, Title III, Aug. 8, 1961, 75 Stat. 307) is classified to section 1926(a) (2) of Title 7, Agriculture.

Sections 103 and 104 of Higher Education Facilities Act of 1963 (Pub. L. 88–204, Dec. 16, 1963, 77 Stat. 363) are classified to sections 715 and 716 of Title 20, Education.

Section 101(a)(1) of Public Works and Economic Development Act of 1965 (Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552) is classified to section 3131 of this title.

Section 412 of Housing and Urban Development Act of 1968 (Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476) is classified to section 3911 of this title.

§ 4520. Technical assistance.

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to private new community developers and State land development agencies, or State and local public bodies and agencies to assist them in connection with planning and carrying out new community development programs. (Pub. L. 91–609, title VII, § 719, Dec. 31, 1970, 84 Stat. 1800.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4527 of this title.

§ 4521. Special planning assistance; authorization of appropriations.

(a) The Secretary may, until June 30, 1975, enter into agreements with private new community developers and State land development agencies to provide financial asistance, in amounts, not exceeding two-thirds of the estimated cost of such work, for planning new community development programs, including planning work which he determines will have special value in assuring that new community development programs (1) will be fully responsive to social or environmental problems related to the public purposes of new community development, or (2) will adequately provide for, or encourage the use of, new or advanced technology in support of program objectives.

(b) The Secretary shall enter into agreements under this section only with respect to new community development programs which had been approved or are being actively considered for approval, having met such initial feasibility criteria as the Secretary may have prescribed, and, in the case of private new community developers, only with respect to planning work which the Secretary determines is in excess of that which would ordinarily be needed to establish final market, financial, and engineering feasibility for programs or projects of similar size and scope not subject to the special purposes of this part. The financial assistance extended pursuant to such agreements shall be subject to such terms and conditions, which, in the case of private new community developers, may include provisions for repayment where appropriate, as the Secretary may prescribe.

(c) There are authorized to be appropriated for financial assistance under this section not to exceed $5,000,000, which limit shall be increased by $5,000,000 on July 1, 1971. Any amount appropriated under this section shall remain available until expended. (Pub. L. 91–609, title VII, § 720, Dec. 31, 1970, 84 Stat. 1800.)

§ 4522. Fees and charges.

The Secretary is authorized to establish and collect fees for guarantees under this part, and may make such charges in connection with guarantees, loans, and technical and other assistance under this part as he considers reasonable for the analysis of applications, appraisals, inspections, and other activities related to such assistance. On or before March 1, 1973, the Secretary shall make a report to the Congress concerning the fees and charges for guarantees under this part that he estimates will be adequate to provide income sufficient for a self-supporting guarantee program and concerning the relationship of other charges to costs incurred under this part. (Pub. L. 91–609, title VII, § 721, Dec. 31, 1970, 84 Stat. 1801.)

§ 4523. Encouragement of small builders.

The Secretary shall adopt such requirements as he deems necessary to assure that new community assistance under this part will (1) help maintain a diversified, local homebuilding industry; (2) increase the capability of all segments of the homebuilding industry, including both small and large producers, to participate, through an increased supply of building sites at reasonable costs and through improved technology, in producing the needed, large volume of well-designed, inexpensive housing; and (3) encourage broad participation by the homebuilding industry, particularly small builders. (Pub. L. 91–609, title VII, § 722, Dec. 31, 1970, 84 Stat. 1801.)

§ 4524. New community demonstration projects.

Upon specific authorization by the President and under applicable Federal law respecting the use of federally owned lands, the Secretary, utilizing funds made available for the purpose by the Congress, is authorized to plan and carry out large-scale projects demonstrating the development of new communities, which shall be designed to contribute to the achievement of the purposes of this part and serve as models for new community developments which could feasibly be carried out by other public and private developers. (Pub. L. 91–609, title VII, § 723, Dec. 31, 1970, 84 Stat. 1801.)

§ 4525. Real property taxation.

Nothing in this part shall be construed to exempt any real property that may be acquired and held by the Secretary as a result of the exercise of lien or subrogation rights from real property taxation to the same extent, according to its value, as other real property is taxed. (Pub. L. 91–609, title VII, § 724, Dec. 31, 1970, 84 Stat. 1801.)

§ 4526. Audit by General Accounting Office; records, access.

Insofar as they relate to any guarantees, loans, or grants made pursuant to this part, the financial transactions of recipients of Federal assistance may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files and all other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit. (Pub. L. 91–609, title VII, § 725, Dec. 31, 1970, 84 Stat. 1801.)

§ 4527. General powers of Secretary.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Secretary, in addition to any authority otherwise vested in him, shall—

(1) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 1749a, except subsections (c)(2), (c)(4), (d), and (f), of Title 12: *Provided,* That subsection (a)(1) of section 1749a of Title 12 shall not apply with respect to functions, powers, and duties under section 4520 of this title;

(2) have the power, notwithstanding any other provision of law, in connection with any assistance under this part, whether before or after any default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of the private new community developer or State land development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(3) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided assistance pursuant to this part. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this part. (Pub. L. 91–609, title VII, § 726, Dec. 31, 1970, 84 Stat. 1801.)

§ 4528. Technical and conforming provisions.

No bonds, debentures, notes, or other obligations shall be guaranteed under title IV of the Housing and Urban Development Act of 1968 after December 31, 1970, except pursuant to an offer or commitment to guarantee, or a project approval, made before that date: *Provided,* That a new community developer whose new community development project has, as of December 31, 1970, been approved by the Secretary under title IV shall be eligible with respect to obligations thereafter issued by him for guarantee assistance as authorized either by title IV or by this part, and such guarantee assistance may be given without a further determination by the Secretary under sections 4513 and 4517(a) of this title. If the Secretary finds that an applicant for title IV assistance has submitted complete financial and internal development plans and related materials pursuant to section 404 of such title IV, or major elements of such plans or materials, the Secretary may accept such plans and materials or major elements, respectively, as fully or partially satisfying the requirement under this part for the submission of a new community development program. All receipts, funds, or other assets and all liabilities of the revolving fund established pursuant to section 407 of the Housing and Urban Development Act of 1968 (including liabilities arising under guarantees made pursuant to such title IV and this section) shall become and be assets and liabilities of the revolving fund established pursuant to this part, as if such assets and liabilities had been received or incurred pursuant to this part, and shall be paid over, held, and accounted for accordingly. (Pub. L. 91–609, title VII, § 727(a), Dec. 31, 1970, 84 Stat. 1802.)

REFERENCES IN TEXT

Title IV of Housing and Urban Development Act of 1968 (Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476) and sections 404 and 407 of such Act, referred to in subsec. (a), are classified to sections 3901 et seq., 3903, and 3906 of this title, respectively.

§ 4529. Labor standards.

All laborers and mechanics employed by contractors or subcontractors in land development assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. No assistance shall be extended under this part for any land development without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in such program. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 276c of Title 40. (Pub. L. 91–609, title VII, § 727(f), Dec. 31, 84 Stat. 1803.)

REFERENCE IN TEXT

The Davis-Bacon Act, as amended, referred to in the text, is classified to sections 276a to 276a—5 of Title 40, Public Buildings, Property, and Works.

Reorganization Plan Numbered 14 of 1950, referred to in the text, is set out in the Appendix to Title 5, Government Organization and Employees.

§ 4530. Interest on obligations as gross income.

With respect to any obligation issued by or on behalf of any State land development agency for which the issuer has elected to receive the benefits of the guarantees provided under this part, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be

included in gross income for the purposes of chapter 1 of Title 26. (Pub. L. 91–609, title VII, § 727(g), Dec. 31, 1970, 84 Stat. 1803.)

§ 4531. Joint funding.

Funds made available under any Federal assistance program for projects or activities approved as part of, or pursuant to, a new community development program may be used jointly with funds made available for such projects or activities under any other Federal assistance program, subject to regulations prescribed by the President. Such regulations may include provisions for common technical or administrative requirements where varying or conflicting provisions of law would otherwise apply, for establishing joint management funds and common non-Federal shares, and for special agreements, or delegations of authority, among different Federal agencies in connection with the supervision or administration of assistance. Such regulations shall in any case include appropriate criteria and procedures to assure that any special authorities conferred, which are not otherwise provided for by law, shall be employed only as necessary to promote effective and efficient administration and in a manner consistent with the protection of the Federal interest and program purposes or statutory requirements of a substantive nature. For purposes of this section, the term "Federal assistance program" has the same meaning as under the Intergovernmental Cooperation Act of 1968. (Pub. L. 91–609, title VII, § 728, Dec. 31, 1970, 84 Stat. 1803.)

REFERENCES IN TEXT

The Intergovernmental Cooperation Act of 1968, referred to in the text, is classified to chapter 52 of this title.

§ 4532. Community Development Corporation.

(a) Establishment.

There is hereby created within the Department of Housing and Urban Development a body corporate to be known as the Community Development Corporation which shall carry out its functions subject to the direction and supervision of the Secretary.

(b) Membership; compensation and travel expenses.

The Corporation shall have a Board of Directors (hereinafter referred to as the "Board") which shall consist of five members as follows:

(1) The Secretary, who shall be Chairman of the Board;

(2) one person, to be appointed by the President by and with the advice and consent of the Senate, who shall serve at the pleasure of the President, shall be the General Manager of the Corporation, serving as its chief executive officer under the Board's general direction, and shall receive compensation at the rate provided for positions at level IV of the Executive Schedule (section 5315 of Title 5); and

(3) three persons, to be appointed by the Secretary who shall serve at his pleasure, but not more than one such person shall be selected from among officers or employees of the Department of Housing and Urban Development.

Members of the Board who are regular, full-time officers or employees of the Federal Government shall receive no additional compensation for their services as Board members. Other members shall receive for their services as members, when engaged in the performance of their duties, the per diem equivalent to the rate for level IV of the Federal Executive Salary Schedule under section 5315 of Title 5. Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such Title for persons in the Government service employed intermittently.

(c) Functions.

The functions of the Secretary with respect to guarantees and loans in aid of new community development under this part shall be administered through the Community Development Corporation, and the Corporation shall perform such additional functions, powers, and duties as the Secretary may prescribe from time to time. (Pub. L. 91–609, title VII, § 729, Dec. 31, 1970, 84 Stat. 1804.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4512 of this title.

Chapter 60.—COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAM

SUBCHAPTER I.—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

Sec.
4551. Establishment; program development; appointment of Director.
4552. Reports and recommendations.

SUBCHAPTER II.—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

4561. Programs for federal civilian employees.
(a) Development and maintenance by the Civil Service Commission.
(b) Programs in State and local governments and private industry.
(c) Prior alcohol abuse no bar to federal employment; exceptions.
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SUBCHAPTER I.—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

§ 4551. Establishment; program development; appointment of Director.

(a) There is established in the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism (hereafter in this chapter referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this chapter referred to as the "Secretary") by this chapter and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of section 241 of this title with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) The Institute shall be under the direction of a Director who shall be appointed by the Secretary. (Pub. L. 91–616, title I, § 101, Dec. 31, 1970, 84 Stat. 1848.)

REFERENCES IN TEXT

Part C of the Community Mental Health Centers Act, referred to in subsec. (a), is set out as section 2688e et seq. of this title.

SHORT TITLE

Section 1 of Pub. L. 91–616 provided that: "This Act [enacting this chapter and section 2688j–2 of this title and amending sections 218, 246, 2688h and 2688t of this title] may be cited as the 'Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970'."

§ 4552. Reports and recommendations.

The Secretary shall—

(1) submit an annual report to Congress which shall include a description of the actions taken, services provided, and funds expended under this chapter and part C of the Community Mental Health Centers Act, an evaluation of the effectiveness of such actions, services, and expenditures of funds, and such other information as the Secretary considers appropriate;

(2) submit to Congress on or before the expiration of the one-year period beginning December 31, 1970, a report (A) containing current information on the health consequences of using alcoholic beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requestd by the President of the United States or by Congress; and

(4) submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism. (Pub. L. 91–616, title I, § 102, Dec. 31, 1970, 84 Stat. 1848.)

REFERENCES IN TEXT

Part C of the Community Mental Health Centers Act, referred to in text, is set out as section 2688e et seq. of this title.

SUBCHAPTER II.—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

§ 4561. Programs for federal civilian employees.

(a) Development and maintenance by the Civil Service Commission.

The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcholism among Federal civilian employees, consistent with the purposes of this chapter. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.

(b) Programs in State and local governments and private industry.

The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c) Prior alcohol abuse no bar to federal employment; exceptions.

(1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(d) Dismissal for incapacity unaffected.

This subchapter shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment. (Pub. L. 91–616, title II, § 201, Dec. 31, 1970, 84 Stat. 1849.)

SUBCHAPTER III.—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A.—FORMULA GRANTS

§ 4571. Authorization of appropriations.

There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $80,000,000 for the fiscal year ending June 30, 1973, for grants to States assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. For purposes of this part, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of

Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States. (Pub. L. 91–616, title II, § 301, Dec. 31, 1970, 84 Stat. 1849.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4572 of this title.

§ 4572. State allotment.

(a) Minimum allotment for any one state.

For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 4571 of this title among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

(b) Availability of unused allotments for use in succeeding years.

Any amount so allotted to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallocated by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) of this section to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallocated to a State shall be in addition to the amounts allotted and available to the State for the period.

(c) Payment of state plan expenditures.

At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the least, shall be available for such purpose for such year. (Pub. L. 91–616, title III, § 302, Dec. 31, 1970, 84 Stat. 1849.)

§ 4573. State plans; approval.

(a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, to consult with the State agency in carrying out the plan;

(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide services for alcohol abuse and alcoholism and a plan for the development and distribution of such facilities and programs throughout the State;

(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6)

(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(9) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds; and

(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. (Pub. L. 91–616, title III, § 303, Dec. 31, 1970, 84 Stat. 1850.)

PART B.—ADMISSION TO HOSPITALS

CODIFICATION

Part consists of Part C and portions of Part D of Title III of Pub. L. 91–616. Part B of such Title enacted section 2688j–2 of this title. Part D, in addition to enacting section 4582 of this title, amended sections 246 and 2688h of this title.

§ 4581. Admission of alcohol abusers and alcoholics to private and public hospitals.

(a) Termination of federal assistance on failure to comply.

Alcohol abusers an alcoholics shall be admitted to and treated in private and public general hospitals, which receive Federal funds for alcoholic treatment programs, on the basis of medical need and shall not be discriminated against solely because of their alcoholism. No hospital that violates this section shall receive Federal financial assistance under the provisions of this chapter; except that the Secretary shall not terminate any such Federal assistance until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and has provided an opportunity for correction or a hearing.

(b) Judicial review.

Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by section 2694 of this title. (Pub. L. 91–616, title III, § 321, Dec. 31, 1970, 84 Stat. 1852.)

§ 4582. Confidentiality of records.

The Secretary may authorize persons engaged in research on, or treatment with respect to, alcohol abuse and alcoholism to protect the privacy of individuals who are the subject of such research or treatment by withholding from all persons not connected with the conduct of such research or treatment the names, or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals. (Pub. L. 91–616, title III, § 333, Dec. 31, 1970, 84 Stat. 1853.)

SUBCHAPTER IV.—GENERAL PROVISIONS

CODIFICATION

Subchapter IV was, in the original, Title V of Pub. L. 91–616.

§ 4591. Separability of provisions.

If any section, provision, or term of this chapter is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this chapter, and the remaining sections, provisions, and terms shall be and remain in full force and effect. (Pub. L. 91–616, title V, § 501, Dec. 31, 1970, 84 Stat. 1854.)

§ 4592. Recordkeeping for audit.

(a) Each recipient of assistance under this chapter pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this chapter under other than competitive bidding procedures. (Pub. L. 91–616, title V, § 502, Dec. 31, 1970, 84 Stat. 1854.)

§ 4593. Payments.

Payments under this chapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine. (Pub. L. 91–616, title V, § 503, Dec. 31, 1970, 84 Stat. 1855.)

Chapter 61.—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS.

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4623. Replacement housing for homeowner; mortgage insurance.

Sec.
4624. Replacement housing for tenants and certain others.
4625. Relocation assistance advisory services.
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(b) Cooperation between assisting and displacing agencies to assure maximum assistance.
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4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority.
4630. Requirements for relocation payments and assistance of Federally assisted program; assurances of availability of housing.
4631. Federal share of costs.
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4633. Regulations and procedures.
4634. Annual report to President; Presidential report to Congress.
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4637. Displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance.
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SUBCHAPTER III.—UNIFORM REAL PROPERTY ACQUISITION POLICY

4651. Uniform policy on real property acquisition practices.
4652. Buildings, structures, and improvements.
4653. Expenses incidental to transfer of title to United States.
4654. Litigation expenses.
4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 4601. Definitions.

As used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve banks and branches thereof.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6) The term "displaced person" means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 4622(a) and (b) and 4625 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 4622(a) of this title, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby. (Pub. L. 91–646, title I, § 101, Jan. 2, 1971, 84 Stat. 1894.)

REFERENCES IN TEXT

"This chapter", referred to in the opening phrase, read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under this section.

EFFECTIVE DATE

Section 221 of Pub. L. 91–646 provided that:

"(a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act [see Short Title note under this section] shall take effect on the date of its enactment. [Jan. 2, 1971].

"(b) Until July 1, 1972, sections 210 and 305 [sections 4630 and 4655 of this title] shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections [sections 4630 and 4655 of this title] shall be completely applicable to all States.

"(c) The repeals made by paragraphs (4) [of section 1606(b) of title 49], (5) [of section 1465 of title 42], (6) [of section 1415(7)(b)(iii) and (8) second sentence of title 42], (8) [of section 3074 of title 42], (9) [of section 3307(b), (c) of title 42], (10) [of chapter 5 (sections 501–511) of title 23], (11) [of provisions set out as notes under former sections 501 and 510 of title 23], and (12) of section 220(a) of this title and section 306 of title III [of sections 3071–3073 of this title, section 141 of title 23, and section 5960 of title 33] shall not apply to any State so long as sections 210 and 305 [sections 4630 and 4655 of this title] are not applicable in such State."

SHORT TITLE

Section 1 of Pub. L. 91–646 provided: "That this Act [which enacted this chapter, repealed section 2680 of Title 10, chapter 5 (sections 501–512) of Title 23, section 596 of Title 33, sections 1415(7)(b)(iii), (8) second sentence, 1465, 2473(b)(14), 3071–3074, and 3307(b), (c) of Title 42, sections 1231–1234 of Title 43, and section 1606(b) of Title 49, enacted provisions set out as notes under sections 4601, 4621, and 4651 of this title, and repealed provisions set out as notes under section 501 and 510 of Title 23] may be cited as the 'Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970'."

§ 4602. Effect upon property acquisition.

(a) The provisions of section 4651 of this title create no rights or liabilities and shall not affect the validity of any property acquisition by purchase or condemnation.

(b) Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971. (Pub. L. 91–646, title I, § 102, Jan. 2, 1971. 84 Stat. 1895.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (b), read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

SUBCHAPTER II.—UNIFORM RELOCATION ASSISTANCE

§ 4621. Declaration of policy.

The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. (Pub. L. 91–646, title II, § 201, Jan. 2, 1971, 84 Stat. 1895.)

REFERENCES IN TEXT

"This subchapter", referred to in the text, read in the original "this title", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Such Title II is classified to this subchapter, repealed sections 1415(7)(b)(iii), (8) second sentence, 1465, 2473(b)(14), 3074 and 3307(b), (c) of this title, section 2680 of Title 10, chapter 5 (sections 501–512) of Title 23, sections 1231–1234 of Title 43, and section 1606(b) of Title 49, enacted provisions set out as notes under sections 4601 and 4621, of this title, and repealed provisions set out as notes under sections 501 and 511 of Title 23.

SAVINGS PROVISION

Section 220(b) of Pub. L. 91–646 provided that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section [repealing sections 1415(7)(b)(iii), (8) second sentence, 1465, 2473(b)(14), 3074, and 3807(b), (c) of this title, section 2680 of Title 10, sections 501–512 of Title 23, sections 1231–1234 of Title 43, and section 1606(b) of Title 49, and provisions set out as notes under sections 501 and 511 of Title 23]."

§ 4622. Moving and related expenses.

(a) General provision.

Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency; and

(3) actual reasonable expenses in searching for a replacement business or farm.

(b) Displacement from dwelling; election of payments: moving expense and dislocation allowance.

Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed $300; and a dislocation allowance of $200.

(c) Displacement from business or farm operation; election of payments; limitations; eligibility for business payments; "average annual net earnings" defined.

Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the

business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. (Pub. L. 91–646, title II, § 202, Jan. 2, 1971, 84 Stat. 1895.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (a), read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4601, 4630 of this title.

§ 4623. Replacement housing for homeowner; mortgage insurance.

(a) (1) In addition to payments otherwise authorized by this subchapter, the head of the Federal agency shall make an additional payment not in excess of $15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the head of the Federal agency making the additional payment.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage. (Pub. L. 91–646, title II, § 203, Jan. 2, 1971, 84 Stat. 1896.)

REFERENCES IN TEXT

"This subchapter", referred to in subsec. (a) (1), read in the original "this title", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of Title II in the Code, see note under section 4621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4624, 4630 of this title.

§ 4624. Replacement housing for tenants and certain others.

In addition to amounts otherwise authorized by this subchapter, the head of the Federal agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4623 of this title which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either—

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed $4,000, or

(2) the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 4623(a)(1)(C) of this title) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and

commercial facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000, in making the downpayment. (Pub. L. 91-646, title II, § 204, Jan. 2, 1971, 84 Stat. 1897.)

REFERENCES IN TEXT

"This subchapter", referred to in introductory text, read in the original "this title", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of Title II in the Code, see note under section 4621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4630 of this title.

§ 4625. Relocation assistance advisory services.

(a) Program for displaced persons and economically injured occupants of adjacent property.

Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

(b) Cooperation between assisting and displacing agencies to assure maximum assistance.

Federal agencies administering programs which may be of assistance to displaced persons covered by this chapter shall cooperate to the maximum extent feasible with the Federal or State agency causing the dislacement to assure that such displaced persons receive the maximum assistance available to them.

(c) Measures, facilities, or services; description.

Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine the need, if any, of displaced persons, for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by such Federal agency head, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived;

(4) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) Coordination of relocation activities with project work and governmental actions in the community or nearby areas affecting carrying out relocation assistance programs.

The heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs. (Pub. L. 91-646, title II, § 205, Jan. 2, 1971, 84 Stat. 1897.)

REFERENCES IN TEXT

"This chapter", referred to in subsec. (b), read in the original "this Act", meaning Pub. L. 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4601, 4626, 4630 of this title.

§ 4626. Housing replacement by Federal agency as last resort.

(a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.

(b) No person shall be required to move from his dwelling on or after January 2, 1971, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 4625(c)(3) of this title, is available to such person. (Pub. L. 91-646, title II, § 206, Jan. 2, 1971, 84 Stat. 1898.)

REFERENCES IN TEXT

"This subchapter", referred to in subsec. (b), read in the original "this title", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of Title II in the Code, see note under section 4621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4631, 4632 of this title.

§ 4627. State required to furnish real property incident to Federal assistance (local cooperation).

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 4630 and 4655 of this title. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the

real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance (Pub. L. 91–646, title II, § 207, Jan. 2, 1971, 84 Stat. 1898.)

§ 4628. State acting as agent for Federal program.

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this chapter, be deemed an acquisition by the Federal agency having authority over such program or project. (Pub. L. 91–646, title II, § 208, Jan. 2, 1971, 84 Stat. 1899.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

§ 4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority.

Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 4630 and 4631 of this title, and such acquisition will result in the displacement of any person on or after January 2, 1971, the Commissioner of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this chapter. Whenever real property is acquired for such a program or project on or after such effective date, such Commissioner or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by subchapter III of this chapter. (Pub. L. 91–646, title II, § 209, Jan. 2, 1971, 84 Stat. 1899.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

"Subchapter III", referred to in the text, read in the original "title III", meaning Title III of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Such Title III is classified to subchapter III of this chapter, repealed sections 3071–3073 of this title, section 141 of Title 23, and section 596 of Title 33, and enacted provisions set out as a note under section 4651 of this title.

CODIFICATION

Section is also set out in D.C. Code, § 5–732a.

§ 4630. Requirements for relocation payments and assistance of Federally assisted program; assurances of availability of housing.

Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, unless he receives satisfactory assurances from such State agency that—

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 4622, 4623, and 4624 of this title;

(2) relocation assistance programs offering the services described in section 4625 of this title shall be provided to such displaced persons;

(3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 4625(c)(3) of this title.

(Pub. L. 91–646, title II, § 210, Jan. 2, 1971, 84 Stat. 1899.)

EFFECTIVE DATE

Section as completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with this section, see section 221(b) of Pub. L. 91–646, set out as a note under section 4601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4627, 4629, 4631, 4632 of this title.

§ 4631. Federal share of costs.

(a) The cost to a State agency of providing payments and assistance pursuant to sections 4626, 4630, 4635, and 4655 of this title, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 4626, 4630, 4635, and 4655 of this title, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first $25,000 of such cost.

(b) No payment or assistance under section 4630 or 4655 of this title shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Any grant to, or contract or agreement with, a State agency executed before January 2, 1971, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall be amended to

include the cost of providing payments and services under sections 4630 and 4655 of this title. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 4626, 4630, 4635, and 4655 of this title. (Pub. L. 91–646, title II, § 211, Jan. 2, 1971, 84 Stat. 1900).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4629 of this title.

§ 4632. Administration; relocation assistance in programs receiving Federal financial assistance.

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 4626, 4630, and 4635 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this subchapter through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 4626 of this title, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities. (Pub. L. 91–646, title II, § 212, Jan. 2, 1971, 84 Stat. 1900.)

§ 4633. Regulations and procedures.

(a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs.

(b) The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

(c) The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter. (Pub. L. 91–646, title II, § 213, Jan. 2, 1971, 84 Stat. 1900.)

REFERENCES IN TEXT

"This chapter", referred to in subsecs. (b)(1), (3), (c), read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

§ 4634. Annual report to President; Presidential report to Congress.

The head of each Federal agency shall prepare and submit an annual report to the President on the activities of such agency with respect to the programs and policies established or authorized by this chapter, and the President shall submit such reports to the Congress not later than January 15 of each year, beginning January 15, 1972, and ending January 15, 1975, together with his comments or recommendations. Such reports shall give special attention to: (1) the effectiveness of the provisions of this chapter assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants; (2) actions taken by the agency to achieve the objectives of the policies of Congress, declared in this chapter, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for, Federal or federally assisted programs; (3) the views of the Federal agency head on the progress made to achieve such objectives in the various programs conducted or administered by such agency, and among the Federal agencies; (4) any indicated effects of such programs and policies on the public; and (5) any recommendations he may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations. (Pub. L. 91–646, title II, § 214, Jan. 2, 1971, 84 Stat. 1901.)

REFERENCES IN TEXT

"This chapter", referred to in the introductory text and cls. (1) and (2), read in the original "this Act", meaning Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of the law in the Code, see Short Title note under section 4601 of this title.

§ 4635. Planning and other preliminary expenses for additional housing.

In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the

rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts. (Pub. L. 91–646, title II, § 215, Jan. 2, 1971, 84 Stat. 1901.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4631, 4632 of this title.

§ 4636. Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law.

No payment received under this subchapter shall be considered as income for the purposes of Title 26; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law. (Pub. L. 91–646, title II, § 216, Jan. 2, 1971, 84 Stat. 1902.)

REFERENCES IN TEXT

"This subchapter", referred to in the text, read in the original "this title", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of Title II in the Code, see note under section 4621 of this title.

The Social Security Act, referred to in the text, is classified to chapter 7 (section 301 et seq.) of this title.

§ 4637. Displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance.

A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after January 2, 1971, as a direct result of any project or program which receives Federal financial assistance under title I of the Housing Act of 1949, as amended, or as a result of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall, for the purposes of this subchapter, be deemed to have been displaced as the result of the acquisition of real property. (Pub. L. 91–646, title II, § 217, Jan. 2, 1971, 84 Stat. 1902.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, as amended, referred to in the text, is classified to section 1450 et seq. of this title.

Title I of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in the text, is classified to section 3301 et seq. of this title.

§ 4638. Transfers of surplus property.

The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this subchapter, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all amounts received by such agency from any sale, lease, or other disposition of such property for such housing. (Pub. L. 91–646, title II, § 218, Jan. 2, 1971, 84 Stat. 1902.)

REFERENCES IN TEXT

"This subchapter", referred to in the text, read in the original "this title", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of Title II in the Code, see note under section 4621 of this title.

The Federal Property and Administrative Services Act, as amended, referred to in the text, is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former Title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

SUBCHAPTER III.—UNIFORM REAL PROPERTY ACQUISITION POLICY

§ 4651. Uniform policy on real property acquisition practices.

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt

offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 258a of Title 40, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by subchapter II of this chapter will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property. (Pub. L. 91–646, title III, § 301, Jan. 2, 1971, 84 Stat. 1904.)

REFERENCES IN TEXT

"Subchapter II of this chapter", referred to in par. (5), read in the original "title II", meaning Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. For classification of Title II in the Code, see note under section 4621 of this title.

SAVINGS PROVISION

Section 306 of Pub. L. 91–646 provided in part that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Act or portions thereof under this section [repealing sections 3071–3073 of this title, section 141 of Title 23, and section 596 of Title 33]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4602, 4655 of this title.

§ 4652. Buildings, structures, and improvements.

(a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b)(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection. (Pub. L. 91–646, title III, § 302, Jan. 2, 1971, 84 Stat. 1905.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4655 of this title.

§ 4653. Expenses incidental to transfer of title to United States.

The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier,

shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) penalty costs for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

(Pub. L. 91-646, title III, § 303, Jan. 2, 1971, 84 Stat. 1906.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4655 of this title.

§ 4654. Litigation expenses.

(a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

(1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) the proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of Title 28, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding. (Pub. L. 91-646, title III, § 304, Jan. 2, 1971, 84 Stat. 1906.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4655 of this title.

§ 4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases.

Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after January 2, 1971, unless he receives satisfactory assurances from such State agency that—

(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 4651 of this title and the provisions of section 4652 of this title, and

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 4653 and 4654 of this title.

(Pub. L. 91-646, title III, § 305, Jan. 2, 1971, 84 Stat. 1906.)

REFERENCES IN TEXT

"This subchapter", referred to in introductory text, read in the original "this title", meaning Title III of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Such Title III is classified to this subchapter, repealed sections 3071-3073 of this title, section 141 of Title 23, and section 596 of Title 33, and enacted provisions set out as a note under section 4651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4627, 4631 of this title.

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§ 4701. Congressional findings and declaration of policy.

The Congress hereby finds and declares—

That effective State and local governmental institutions are essential in the maintenance and development of the Federal system in an increasingly complex and interdependent society.

That, since numerous governmental activities administered by the State and local governments are related to national purpose and are financed in part by Federal funds, a national interest exists in a high caliber of public service in State and local governments.

That the quality of public service at all levels of government can be improved by the development of systems of personnel administration consistent with such merit principles as—

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) providing equitable and adequate compensation;

(3) training employees, as needed, to assure high-quality performance;

(4) retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and

(6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

That Federal financial and technical assistance to State and local governments for strengthening their personnel administration in a manner consistent with these principles is in the national interest. (Pub. L. 91-648, § 2, Jan. 5, 1971, 84 Stat. 1909.)

SHORT TITLE

Section 1 of Pub. L. 91-648 provided: "That this Act [which enacted this chapter and sections 3371-3376 of Title 5, amended section 1304(e)(1) of Title 5, repealed sections 1881-1888 of Title 7, section 869b of Title 20, and section 246(f) of this title, and enacted provisions set out as notes under section 3371 of Title 5] may be cited as the 'Intergovernmental Personnel Act of 1970'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4722, 4723, 4743 of this title.

§ 4702. Administration of authorities.

The authorities provided by this Act shall be administered in such manner as (1) to recognize fuly the rights, powers, and responsibilities of State and local governments, and (2) to encourage innovation and allow for diversity on the part of State and

local governments in the design, execution, and management of their own systems of personnel administration. (Pub. L. 91–648, § 3, Jan. 5, 1971, 84 Stat. 1909.)

REFERENCES IN TEXT

This Act, referred to in the text, is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, for classification of which in the Code see Short Title note set out under section 4701 of this title.

SUBCHAPTER I.—DEVELOPMENT OF POLICIES AND STANDARDS

§ 4711. Declaration of purpose.

The purpose of this subchapter is to provide for intergovernmental cooperation in the development of policies and standards for the administration of programs authorized by this Act. (Pub. L. 91–648, title I, § 101, Jan. 5, 1971, 84 Stat. 1910.)

REFERENCES IN TEXT

This Act, referred to in the text, is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, for classification of which in the Code see Short Title note set out under section 4701 of this title.

§ 4712. Advisory council on intergovernmental personnel policy.

(a) Appointment; termination.

Within one hundred and eighty days following January 5, 1971, the President shall appoint, without regard to the provisions of Title 5 governing appointments in the competitive service, an advisory council on intergovernmental personnel policy. The President may terminate the council at any time after the expiration of three years following its establishment.

(b) Membership; designation of Chairman and Vice Chairman.

The advisory council of not to exceed fifteen members, shall be composed primarily of officials of the Federal Government and State and local governments, but shall also include members selected from educational and training institutions or organizations, public employee organizations, and the general public. At least half of the governmental members shall be officials of State and local governments. The President shall designate a Chairman and a Vice Chairman from among the members of the advisory council.

(c) Duties regarding personnel policies.

It shall be the duty of the advisory council to study and make recommendations regarding personnel policies and programs for the purpose of—

(1) improving the quality of public administration at State and local levels of government, particularly in connection with programs that are financed in whole or in part from Federal funds;

(2) strengthening the capacity of State and local governments to deal with complex problems confronting them;

(3) aiding State and local governments in training their professional, administrative, and technical employees and officials;

(4) aiding State and local governments in developing systems of personnel administration that are responsive to the goals and needs of their programs and effective in attracting and retaining capable employees; and

(5) facilitating temporary assignments of personnel between the Federal Government and State and local governments and institutions of higher education.

(d) Compensation and travel expenses.

Members of the advisory council who are not regular full-time employees of the United States, while serving on the business of the council, including travel time, may receive compensation at rates not exceeding the daily rate for GS–18; and while so serving away from their homes or regular places of business, all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently. (Pub. L. 91–648, title I, § 102, Jan. 5, 1971, 84 Stat. 1910.)

§ 4713. Reports of advisory council.

(a) Reports to President and Congress.

The advisory council on intergovernmental personnel policy shall from time to time report to the President and to the Congress its findings and recommendations.

(b) Initial report.

Not later than eighteen months after its establishment, the advisory council shall submit an initial report on its activities, which shall include its views and recommendations on—

(1) the feasibility and desirability of extending merit policies and standards to additional Federal-State grant-in-aid programs;

(2) the feasibility and desirability of extending merit policies and standards to grant-in-aid programs of a Federal-local character;

(3) appropriate standards for merit personnel administration, where applicable, including those established by regulations with respect to existing Federal grant-in-aid programs; and

(4) the feasibility and desirability of financial and other incentives to encourage State and local governments in the development of comprehensive systems of personnel administration based on merit principles.

(c) Presidential report to Congress.

In transmitting to the Congress reports of the advisory council, the President shall submit to the Congress proposals of legislation which he deems desirable to carry out the recommendations of the advisory council. (Pub. L. 91–648, title I, § 103, Jan. 5, 1971, 84 Stat. 1910.)

SUBCHAPTER II.—STRENGTHENING STATE AND LOCAL PERSONNEL ADMINISTRATION

§ 4721. Declaration of purpose.

The purpose of this subchapter is to assist State and local governments to strengthen their staffs by improving their personnel administration. (Pub. L. 91–648, title II, § 201, Jan. 5, 1971, 84 Stat. 1911.)

§ 4722. State government and statewide programs and grants.

(a) Amount of grants; executive certification; systems of personnel administration: innovation and diversity in design, execution, and management.

The United States Civil Service Commission (hereinafter referred to as the "Commission") is authorized to make grants to a State for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs, or projects contained within the State's application are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of this title, to strengthen personnel administration in that State government or in local governments of that State. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

(b) Application; time of making; information; terms and conditions; personnel administration improvement.

An application for a grant shall be made at such time or times, and contain such information, as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section only if the application therefor—

(1) provides for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the approved program or project at the State level;

(2) provides for the establishment of merit personnel administration where appropriate and the further improvement of existing systems based on merit principles;

(3) provides for specific personnel administration improvement needs of the State government and, to the extent appropriate, of the local governments in that State, including State personnel administration services for local governments;

(4) provides assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of the Federal funds for State or local funds previously made available for these purposes; and

(5) sets forth clear and practicable actions for the improvement of particular aspects of personnel administration such as—

(A) establishment of statewide personnel systems of general or special functional coverage to meet the needs of urban, suburban, or rural governmental jurisdictions that are not able to provide sound career services, opportunities for advancement, adequate retirement and leave systems, and other career inducements to well-qualified professional, administrative, and technical personnel;

(B) making State grants to local governments to strengthen their staffs by improving their personnel administration;

(C) assessment of State and local government needs for professional, administrative, and technical manpower, and the initiation of timely and appropriate action to meet such needs;

(D) strengthening one or more major areas of personnel administration, such as recruitment and selection, training and development, and pay administration;

(E) undertaking research and demonstration projects to develop and apply better personnel administration techniques, including both projects conducted by State and local government staffs and projects conducted by colleges or universities or other appropriate nonprofit organizations under grants or contracts;

(F) strengthening the recruitment, selection, assignment, and development of handicapped persons, women, and members of disadvantaged groups whose capacities are not being utilized fully;

(G) training programs related directly to upgrading within the agency for nonprofessional employees who show promise of developing a capacity for assuming professional responsibility;

(H) achieving the most effective use of scarce professional, administrative, and technical manpower; and

(I) increasing intergovernmental cooperation in personnel administration, with respect to such matters as recruiting, examining, pay studies, training, education, personnel interchange, manpower utilization, and fringe benefits.

(Pub. L. 91-648, title II, § 202, Jan. 5, 1971, 84 Stat. 1911.)

REFERENCES IN TEXT

For effective date of the grant provisions of this Act, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4771 of this title. For classification of the Act, which is Pub. L. 91-648, the Intergovernmental Personnel Act of 1970, see Short Title note set under section 4701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4723, 4728 of this title.

§ 4723. Local government programs and grants.

(a) Population served; amount of grants; executive certification; State grant, conditions.

The Commission is authorized to make grants to a general local government, or a combination of general local governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the mayor(s), or chief executive officer(s), of the general local government or combination of local governments that the programs or projects are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of

this title to strengthen the personnel administration of such governments. Such a grant may not be made—

(1) if, at the time of submission of an application, the State concerned has an approved plan which, with the agreement of the particular local government concerned, provides for strengthening one or more aspects of personnel administration in that local government, unless the local government concerned has problems which are not met by the previously approved plan and for which, with the agreement of the State government concerned with respect to those aspects of personnel administration covered in the approved plan, it is submitting an application; or

(2) after the State concerned has a statewide plan which has been developed by an appropriate State agency designated or established pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, and which provides procedures insuring adequate involvement of officials of affected local governments in the development and administration of such a statewide plan, unless the local government concerned has special, unique, or urgent problems which are not met by the approved statewide plan and for which it submits an application for funds to be distributed under section 4766(a) of this title.

Upon the request of a Governor or chief executive authority, a grant to a general local government or combination of such governments in that State may not be made during a period not to exceed ninety days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this Act are promulgated, whichever date is later: *Provided,* That the request of the Governor or chief executive authority indicates that he is developing a plan under (1) above, or during a period not to exceed one hundred and eighty days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this Act are promulgated, whichever date is later, provided the request of the Governor or chief executive authority indicates that he is developing a statewide plan under (2) above.

(b) Application; time of making; information; terms and conditions; waiver; development costs; population served.

An application for a grant from a general local government or a combination of general local governments shall be made at such time or times and shall contain such information as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section only if the application therefor meets requirements similar to those established in section 4722(b) of this title for a State application for a grant, unless any such requirement is specifically waived by the Commission, and the requirements of subsection (c) of this section. Such a grant may cover the costs of developing the program or project covered by the application. The Commission may make grants to general local governments, or combinations of such governments, that serve a population of less than fifty thousand, if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special problems in personnel administration related to such programs or projects.

(c) Gubernatorial review of application; disapproval explanation.

An application to be submitted to the Commission under subsection (b) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under section 4722(b)(1) of this title for review. Comments and recommendations (if any) made as a result of the review, and a statement by the general local government or combination of such governments that it has considered the comments and recommendations of the Governor shall accompany the application to the Commission. The application need not be accompanied by the comments and recommendations of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Commission whenever the Commission does not concur with recommendations of the Governor in approving any local government applications. (Pub. L. 91–648, title II, § 203, Jan. 5, 1971, 84 Stat. 1912.)

REFERENCES IN TEXT

For effective date of the grant provisions of this Act, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4771 of this title. For classification of the Act (also referred to in subsec. (a) following par. (2)), which is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, see Short Title note set out under section 4701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4728 of this title.

§ 4724. Intergovernmental cooperation in recruiting and examining activities; potential employees, certification; payments for costs; credits to appropriation or fund for payment of expenses.

(a) The Commission may join, on a shared-cost basis, with State and local governments in cooperative recruiting and examining activities under such procedures and regulations as may jointly be agreed upon.

(b) The Commission also may, on the written request of a State or local government and under such procedures as may be jointly agreed upon, certify to such governments from appropriate Federal registers the names of potential employees. The State or local government making the request shall pay the Commission for the costs, as determined by the Commission, of performing the service, and such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid. (Pub. L. 91–648, title II, § 204, Jan. 5, 1971, 84 Stat. 1914.)

§ 4725. Technical assistance; waiver of payments for costs; credits to appropriation or fund for payment of expenses.

The Commission may furnish technical advice and assistance, on request, to State and general local governments seeking to improve their systems of personnel administration. The Commission may waive, in whole or in part, payments from such governments for the costs of furnishing such assistance. All such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid. (Pub. L. 91–648, title II, § 205, Jan. 5, 1971, 84 Stat. 1914.)

§ 4726. Coordination of Federal programs.

The Commission, after consultation with other agencies concerned, shall—

(1) coordinate the personnel administration support and technical assistance given to State and local governments and the support given State programs or projects to strengthen local government personnel administration, including the furnishing of needed personnel administration services and technical assistance, under authority of this Act with any such support given under other Federal programs; and

(2) make such arrangements, including the collection, maintenance, and dissemination of data on grants for strengthening State and local government personnel administration and on grants to States for furnishing needed personnel administration services and technical assistance to local governments, as needed to avoid duplication and insure consistent administration of related Federal activities.

(Pub. L. 91–648, title II, § 206, Jan. 5, 1971, 84 Stat. 1914.)

REFERENCES IN TEXT

This Act, referred to in cl. (1), is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, for classification of which in the Code see Short Title note set out under section 4701 of this title.

§ 4727. Interstate compacts.

The consent of the Congress is hereby given to any two or more States to enter into compacts or other agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance (including the establishment of appropriate agencies) in connection with the development and administration of personnel and training programs for employees and officials of State and local governments. (Pub. L. 91–648, title II, § 207, Jan. 5, 1971, 84 Stat. 1915.)

§ 4728. Transfer of functions.

(a) Prescription of personnel standards on a merit basis.

There are hereby transferred to the Commission all functions, powers, and duties of—

(1) the Secretary of Agriculture under section 2019(e)(2) of Title 7;

(2) the Secretary of Labor under—

(A) the Act of June 6, 1933, as amended (section 49 et seq. of Title 29); and

(B) section 503(a)(1) of Title 42;

(3) the Secretary of Health, Education, and Welfare under—

(A) sections 2674(a)(6) and 2684(a)(6) of Title 42;

(B) section 3023(a)(6) of Title 42;

(C) sections 246(a)(2)(F) and (d)(2)(F) and 291d(a)(8) of Title 42; and

(D) sections 302(a)(5)(A), 602(a)(5)(A), 705(a)(3)(A), 1202(a)(5)(A), 1352(a)(5)(A), 1382(a)(5)(A), and 1396a(a)(4)(A) of Title 42; and

(4) any other department, agency, office, or officer (other than the President) under any other provision of law or regulation applicable to a program of grant-in-aid that specifically requires the establishment and maintenance of personnel standards on a merit basis with respect to the program;

insofar as the functions, powers, and duties relate to the prescription of personnel standards on a merit basis.

(b) Powers and duties of Commission.

The Commission shall—

(1) provide consultation and technical advice and assistance to State and local governments to aid them in complying with standards prescribed by the Commission under subsection (a) of this section; and

(2) advise Federal agencies administering programs of grants or financial assistance as to the application of required personnel administration standards, and recommend and coordinate the taking of such actions by the Federal agencies as the Commission considers will most effectively carry out the purpose of this subchapter.

(c) Transfer of personnel, property, records, and funds; time of transfer.

So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of any Federal agency employed, used, held, available, or to be made available in connection with the functions, powers, and duties vested in the Commission by this section as the Director of the Management and Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(d) Modification or supersedure of personnel standards.

Personnel standards prescribed by Federal agencies under laws and regulations referred to in subsection (a) of this section shall continue in effect until modified or superseded by standards prescribed by the Commission under subsection (a) of this section.

(e) Systems of personnel administration; innovation and diversity in design, execution, and management.

Any standards or regulations established pursuant to the provisions of this section shall be such as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own individual systems of personnel administration.

(f) Interpretation of certain provisions; limitation.

Nothing in this section or in section 4722 or 4723 of this title shall be construed to—

(1) authorize any agency or official of the Federal Government to exercise any authority, direction, or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee;

(2) authorize the application of personnel standards on a merit basis to the teaching personnel of educational institutions or school systems;

(3) prevent participation by employees or employee organizations in the formulation of policies and procedures affecting the conditions of their employment, subject to the laws and ordinances of the State or local government concerned;

(4) require or request any State or local government employee to disclose his race, religion, or national origin, or the race, religion, or national origin, of any of his forebears;

(5) require or request any State or local government employee, or any person applying for employment as a State or local government employee, to submit to any interrogation or examination or to take any psychological test or any polygraph test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters; or

(6) require or request any State or local government employee to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(g) Effective date.

This section shall become effective sixty days after January 5, 1971. (Pub. L. 91–648, title II, § 208, Jan. 5, 1971, 84 Stat. 1915.)

SUBCHAPTER III.—TRAINING AND DEVELOPING STATE AND LOCAL EMPLOYEES

§ 4741. Declaration of purpose.

The purpose of this subchapter is to strengthen the training and development of State and local government employees and officials, particularly in professional, administrative, and technical fields. (Pub. L. 91–648, title III, § 301, Jan. 5, 1971, 84 Stat. 1916.)

§ 4742. Admission to Federal employee training programs; waiver of payments for training costs; credits to appropriation or fund for payment of costs; use of appropriations for payment of certain initial costs and reimbursement of other Federal agencies for such costs.

(a) In accordance with such conditions as may be prescribed by the head of the Federal agency concerned, a Federal agency may admit State and local government employees and officials to agency training programs established for Federal professional, administrative, or technical personnel.

(b) Federal agencies may waive, in whole or in part, payments from, or on behalf of, State and local governments for the costs of training provided under this section. Payments received by the Federal agency concerned for training under this section shall be credited to the appropriation or fund used for paying the training costs.

(c) The Commission may use appropriations authorized by this Act to pay the initial additional developmental or overhead costs that are incurred by reason of admittance of State and local government employees to Federal training courses and to reimburse other Federal agencies for such costs. (Pub. L. 91–648, title III, § 302, Jan. 5, 1971, 84 Stat. 1916.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, for classification of which in the Code see Short Title note set out under section 4701 of this title.

§ 4743. Grants to State and local governments for training.

(a) Amount of grants; executive certification; use restrictions; uses for nonfederal share; personnel training and education programs: innovation and diversity in development and execution.

If in its judgment training is not adequately provided for under grant-in-aid or other statutes, the Commission is authorized to make grants to State and general local governments for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs, on the certification of the Governor of that State, or the mayor or chief executive officer of the general local government, that the programs are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 4701 of this title, to train and educate their professional, administrative, and technical employees and officials. Such grants may not be used to cover costs of full-time graduate-level study, provided for in section 4745 of this title, or the costs of the construction or acquisition of training facilities. The State and local government share of the cost of developing and carrying out training and education plans and programs may include, but shall not consist solely of, the reasonable value of facilities and of supervisory and other personal services made available by such governments. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in developing and carrying out training and education programs for their personnel.

(b) Application; time of making; information; terms and conditions; waiver; development costs.

An application for a grant from a State or general local government shall be made at such time or times, and shall contain such information, as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section, only if the application therefore meets requirements estab-

lished by this subsection unless any requirement is specifically waived by the Commission. Such grant to a State, or to a general local government under subsection (c) of this section, may cover the costs of developing the program covered by the application. The program covered by the application shall—

(1) provide for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the program at the State level;

(2) provide, to the extent feasible, for coordination with relevant training available under or supported by other Federal Government programs or grants;

(3) provide for training needs of the State government and of local governments in that State;

(4) provide, to the extent feasible, for intergovernmental cooperation in employee training matters, especially within metropolitan or regional areas; and

(5) provide assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of Federal funds for State or local funds previously made available for these purposes.

(c) Population served; amount of grants; executive certification; State grant, conditions; terms and conditions; waiver.

A grant authorized by subsection (a) of this section may be made to a general local government, or a combination of such governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the mayor(s), or chief executive officer(s), of the general local government or combination of local governments that the programs or projects are consistent with the applicable principles set forth in clauses (1)-(6) of the third paragraph of section 4701 of this title to train and educate their professional, administrative, and technical employees and officials. Such a grant may not be made—

(1) if, at the time of submission of an application, the State concerned has an approved plan which, with the agreement of the particular local government concerned, provides for strengthening one or more aspects of training in that local government, unless the local government concerned has problems which are not met by the previously approved plan and for which, with the agreement of the State government concerned with respect to those aspects of training covered in the approved plan, it is submitting an application; or

(2) after the State concerned has a statewide plan which has been developed by an appropriate State agency designated or established pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, and which provides procedures insuring adequate involvement of officials of affected local governments in the development and administration of such a statewide plan, unless the local government concerned has special, unique, or urgent problems which are not met by the approved statewide plan and for which it submits an application for funds to be distributed under section 4766(a) of this title.

Upon the request of a Governor or chief executive authority, a grant to a general local government or combination of such governments in that State may not be made during a period not to exceed ninety days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this Act are promulgated, whichever date is later: *Provided,* That the request of the Governor or chief executive authority indicates that he is developing a plan under (1) above, or during a period not to exceed one hundred and eighty days commencing with the date provided in section 4772 of this title, or the date on which official regulations for this Act are promulgated, whichever date is later, provided the request of the Governor or chief executive authority indicates that he is developing a statewide plan under (2) above. To be approved, an application for a grant under this subsection must meet requirements similar to those established in subsection (b) of this section for State applications, unless any such requirement is specifically waived by the Commission, and the requirements of subsection (d) of this section. The Commission may make grants to general local governments, or combinations of such governments that serve a population of less than fifty thousand if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special needs for personnel training and education related to such programs or projects.

(d) Gubernatorial review of application; disapproval explanation.

An application to be submitted to the Commission under subsection (c) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under subsection (b)(1) of this section for review. Comments and recommendations (if any) made as a result of the review and a statement by the general local government or combination of such governments that it has considered the comments and recommendations of the Governor shall accompany the application to the Commission. The application need not be accompanied by the comments and recommendations of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Commission whenever the Commission does not concur

with recommendations of the Governor in approving any local government applications. (Pub. L. 91–648, title III, § 303, Jan. 5, 1971, 84 Stat. 1917.)

REFERENCES IN TEXT

For effective date of the grant provisions of this Act, referred to in subsecs. (a) and (c), as being 180 days after Jan. 5, 1971, see section 4771 of this title. For classification of the Act (also referred to in subsec. (c) following par. (2)), which is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, see Short Title note set out under section 4701 of this title.

§ 4744. Grants to other organizations.

(a) Amount of grants; conditions.

The Commission is authorized to make grants to other organizations to pay up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, up to 50 per centum) of the costs of providing training to professional, administrative, or technical employees and officials of State or local governments if the Commission—

(1) finds that State or local governments have requested the proposed program;

(2) determines that the capability to provide such training does not exist, or is not readily available, within the Federal or the State or local governments requesting such program or within associations of State or local governments, or if such capability does exist that such government or association is not disposed to provide such training; and

(3) approves the program as meeting such requirements as may be prescribed by the Commission in its regulations pursuant to this Act.

(b) "Other organization" defined.

For the purpose of this section "other organization" means—

(1) a national, regional, statewide, areawide, or metropolitan organization, representing member State or local governments;

(2) an association of State or local public officials; or

(3) a nonprofit organization one of whose principal functions is to offer professional advisory, research, development, educational or related services to governments.

(Pub. L. 91–648, title III, § 304, Jan. 5, 1971, 84 Stat. 1919.)

REFERENCES IN TEXT

For effective date of the grant provisions of this Act, referred to in subsec. (a), as being 180 days after Jan. 5, 1971, see section 4771 of this title. For classification of the Act (also referred to in subsec. (a)(3)), which is Pub. L. 91–648, the Intergovernmental Personnel Act of 1970, see Short Title note set out under section 4701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4764 of this title.

§ 4745. Government Service Fellowships.

(a) Diverse payments.

The Commission is authorized to make grants to State and general local governments to support programs approved by the Commission for providing Government Service Followships for State and local government personnel. The grants may cover—

(1) the necessary costs of the fellowship recipient's books, travel, and transportation, and such related expenses as may be authorized by the Commission;

(2) reimbursement to the State or local government for not to exceed one-fourth of the salary of each fellow during the period of the fellowship; and

(3) payment to the educational institutions involved of such amounts as the Commission determines to be consistent with prevailing practices under comparable federally supported programs for each fellow, less any amount charged the fellow for tuition and nonrefundable fees and deposits.

(b) Period of fellowships; eligibility criteria.

Fellowships awarded under this section may not exceed two years of full-time graduate-level study for professional, administrative, and technical employees. The regulations of the Commission shall include eligibility criteria for the selection of fellowship recipients by State and local governments.

(c) Selection of fellows; continuation of salary and employment benefits; public service plans upon completion of study: outline of plans in application for grant.

The State or local government concerned shall—

(1) select the individual recipients of the fellowships;

(2) during the period of the fellowship, continue the full salary of the recipient and normal employment benefits such as credit for seniority, leave accrual, retirement, and insurance; and

(3) make appropriate plans for the utilization and continuation in public service of employees completing fellowships and outline such plans in the application for the grant.

(Pub. L. 91–648, title III, § 305, Jan. 5, 1971, 84 Stat. 1919.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4743 of this title.

§ 4746. Coordination of Federal programs.

The Commission, after consultation with other agencies concerned, shall—

(1) prescribe regulations concerning administration of training for employees and officials of State and local governments provided for in this subchapter, including requirements for coordination of and reasonable consistency in such training programs;

(2) coordinate the training support given to State and local governments under authority of this Act with training support given such governments under other Federal programs; and

(3) make such arrangements, including the collection and maintenance of data on training grants and programs, as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of related Federal training activities, with particular regard to title IX of the Higher Education Act of 1965.

(Pub. L. 91–648, title III, § 306, Jan. 5, 1971, 84 Stat. 1920.)

REFERENCES IN TEXT

This Act, referred to in cl. (2), is Pub. L. 91-648, the Intergovernmental Personnel Act of 1970, for classification of which in the Code see Short Title note set out under section 4701 of this title.

Title IX of the Higher Education Act of 1965, referred to in cl. (3), is classified to subchapter VIII of chapter 28 (section 1134 et seq.) of this title.

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 4761. Declaration of purpose.

The purpose of this subchapter is to provide for the general administration of subchapters I, II, III, and IV of this chapter (hereinafter referred to as "this chapter"), and to provide for the establishment of certain advisory committees. (Pub. L. 91-648, title V, § 501, Jan. 5, 1971, 84 Stat. 1925.)

§ 4762. Definitions.

For the purpose of this chapter—

(1) "Commission" means the United States Civil Service Commission;

(2) "Federal agency" means an executive department, military department, independent establishment, or agency in the executive branch of the Government of the United States, including Government owned or controlled corporations;

(3) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States, and includes interstate and Federal-interstate agencies but does not include the governments of the political subdivisions of a State; and

(4) "local government" means a city, town, county, or other subdivision or district of a State, including agencies, instrumentalities, and authorities of any of the foregoing and any combination of such units or combination of such units and a State. A "general local government" means a city, town, county, or comparable general-purpose political subdivision of a State.

(Pub. L. 91-648, title V, § 502, Jan. 5, 1971, 84 Stat. 1925.)

§ 4763. General administrative provisions.

(a) Administration by Commission.

Unless otherwise specifically provided, the Commission shall administer this chapter.

(b) Advice and assistance.

The Commission shall furnish such advice and assistance to State and local governments as may be necessary to carry out the purposes of this chapter.

(c) Regulations and standards; contracts: modification, covenants, conditions, and provisions; utilization of other agencies.

In the performance of, and with respect to, the functions, powers, and duties vested in it by this chapter, the Commission may—

(1) issue such standards and regulations as may be necessary to carry out the purposes of this chapter;

(2) consent to the modification of any contract entered into pursuant to this chapter, such consent being subject to any specific limitations of this chapter;

(3) include in any contract made pursuant to this chapter such covenants, conditions, or provisions as it deems necessary to assure that the purposes of this chapter will be achieved; and

(4) utilize the services and facilities of any Federal agency, any State or local government, and any other public or nonprofit agency or institution, on a reimbursable basis or otherwise, in accordance with agreements between the Commission and the head thereof.

(d) Information: collection and availability; research and evaluation; administration report; coordination of Federal programs.

In the performance of, and with respect to the functions, powers, and duties vested in it by this chapter, the Commission—

(1) may collect information from time to time with respect to State and local government training programs and personnel administration improvement programs and projects under this chapter, and make such information available to interested groups, organizations, or agencies, public or private;

(2) may conduct such research and make such evaluation as needed for the efficient administration of this chapter;

(3) shall include in its annual report a report of the administration of this chapter; and

(4) shall make such arrangements as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of the related Federal training activities, with particular regard to title I of the Higher Education Act of 1965.

(e) Additional authority.

The provisions of this chapter are not a limitation on existing authorities under other statutes but are in addition to any such authorities, unless otherwise specifically provided in this chapter. (Pub. L. 91-648, title V, § 503, Jan. 5, 1971, 84 Stat. 1926.)

REFERENCES IN TEXT

Title I of the Higher Education Act of 1965, referred to in subsec. (d)(4), is classified to subchapter I of chapter 28 (section 1001 et seq.) of this title.

§ 4764. Reporting and recordkeeping requirements for State or local governments and other organizations.

(a) A State or local government office designated to administer a program or project under this chapter shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved program or project as the Commission may require, and shall keep and make available such records as may be required by the Commission for the verification of such reports and evaluations.

(b) An organization which receives a training grant under section 4744 of this title shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal grant funds and

the operation of the training program as the Commission may require, and shall keep and make available such records as may be required by the Commission for the verification of such reports and evaluations. (Pub. L. 91–648, title V, § 504, Jan. 5, 1971, 84 Stat. 1926.)

§ 4765. Review and audit.

The Commission, the head of the Federal agency concerned, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received. (Pub. L. 91–648, title V, § 505, Jan. 5, 1971, 84 Stat. 1927.)

§ 4766. Distribution of grants.

(a) State and local government allocations; equitable distribution.

The Commission shall allocate 20 per centum of the total amount available for grants under this chapter in such manner as will most nearly provide an equitable distribution of the grants among States and between State and local governments, taking into consideration such factors as the size of the population, number of employees affected, the urgency of the programs or projects, the need for funds to carry out the purposes of this chapter, and the potential of the governmental jurisdictions concerned to use the funds most effectively.

(b) Same; weighted formula; minimum allocation; reallocation; "State" defined.

(1) The Commission shall allocate 80 per centum of the total amount available for grants under this chapter among the States on a weighted formula taking into consideration such factors as the size of population and the number of State and local government employees affected.

(2) The amount allocated for each State under paragraph (1) of this subsection shall be further allocated by the Commission to meet the needs of both the State government and the local governments within the State on a weighted formula taking into consideration such factors as the number of State and local government employees and the amount of State and local government expenditures. The Commission shall determine the categories of employees and expenditures to be included or excluded, as the case may be, in the number of employees and amount of expenditures. The minimum allocation for meeting needs of local governments in each State (other than the District of Columbia) shall be 50 per centum of the amount allocated for the State under paragraph (1) of this subsection.

(3) The amount of any allocation under paragraph (2) of this subsection which the Commission determines, on the basis of information available to it, will not be used to meet needs for which allocated shall be available for use to meet the needs of the State government or local governments in that State, as the case may be, on such date or dates as the Commission may fix.

(4) The amount allocated for any State under paragraph (1) of this subsection which the Commission determines, on the basis of information available to it, will not be used shall be available for reallocation by the Commission from time to time, on such date or dates as it may fix, among other States with respect to which such a determination has not been made, in accordance with the formula set forth in paragraph (1) of this subsection, but with such amount for any of such other States being reduced to the extent it exceeds the sum the Commission estimates said State needs and will be able to use; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced.

(5) For the purposes of this subsection, "State" means the several States of the United States and the District of Columbia.

(c) Payment limitation.

Notwithstanding the other provisions of this section, the total of the payments from the appropriations for any fiscal year under this chapter made with respect to programs or projects in any one State may not exceed an amount equal to 12½ per centum of such appropriation. (Pub. L. 91–648, title V, § 506, Jan. 5, 1971, 84 Stat. 1927.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4743 of this title.

§ 4767. Termination of grants.

Whenever the Commission, after giving reasonable notice and opportunity for hearing to the State or general local government concerned, finds—

(1) that a program or project has been so changed that it no longer complies with the provisions of this chapter; or

(2) that in the operation of the program or project there is a failure to comply substantially with any such provision;

the Commission shall notify the State or general local government of its findings and no further payments may be made to such government by the Commission until it is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Commission may authorize the continuance of payments to those projects approved under this chapter which are not involved in the noncompliance. (Pub. L. 91–648, title V, § 507, Jan. 5, 1971, 84 Stat. 1928.)

§ 4768. Advisory committees; appointment; compensation and travel expenses.

(a) The Commission may appoint, without regard to the provisions of Title 5 governing appointments in the competitive service, such advisory committee or committees as it may determine to be necessary to facilitate the administration of this chapter.

(b) Members of advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for GS–18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently. (Pub. L. 91–648, title V, § 508, Jan. 5, 1971, 84 Stat. 1928.)

§ 4769. Authorization of appropriations.

There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the programs authorized by this chapter. (Pub. L. 91-648, title V, § 509, Jan. 5, 1971, 84 Stat. 1928.)

§ 4770. Limitations on availability of funds for cost sharing.

Federal funds made available to State or local governments under other programs may not be used by the State or local government for cost-sharing purposes under grant provisions of this chapter, except that Federal funds of a program financed wholly by Federal funds may be used to pay a prorata share of such cost sharing. State or local government funds used for cost sharing on other federally assisted programs may not be used for cost sharing under grant provisions of this chapter. (Pub. L. 91-648, title V, § 511, Jan. 5, 1971, 84 Stat. 1928.)

§ 4771. Method of payment; installments; advances or reimbursement; adjustments.

Payments under this chapter may be made in installments, and in advance or by way of reimbursement, as the Commission may determine, with necessary adjustments on account of overpayments or underpayments. (Pub. L. 91-648, title V, § 512, Jan. 5, 1971, 84 Stat. 1929.)

§ 4772. Effective date of grant provisions.

Grant provisions of this chapter shall become effective one hundred and eighty days following January 5, 1971. (Pub. L. 91-648, title V, § 513, Jan. 5, 1971, 84 Stat. 1929.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4723, 4743 of this title.

Chapter 63.—LEAD-BASED PAINT POISONING PREVENTION

SUBCHAPTER I.—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

Sec.
4801. Development of local programs.
(a) Assistance of Secretary.
(b) Limitation on amount of grant.
(c) Required provisions.
(d) Employment opportunities for local residents.

SUBCHAPTER II.—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

4811. Development of local programs; assistance of Secretary; required provisions; consistency of assisted programs; employment opportunities for local residents.

SUBCHAPTER III.—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

4821. Development of program; consultation; nature of program; report to Congress.

SUBCHAPTER IV.—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

4831. Use of lead-based paint in residential structures constructed or rehabilitated by Federal government or with Federal assistance.

SUBCHAPTER V.—GENERAL PROVISIONS

4841. Definitions.
4842. Consultation by Secretary with other departments and agencies.
4843. Authorization of appropriations.

SUBCHAPTER I.—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

§ 4801. Development of local programs.

(a) Assistance of Secretary.

The Secretary of Health, Education, and Welfare (hereafter referred to in this subchapter as the "Secretary") is authorized to make grants to units of general local government in any State for the purpose of assisting such units in developing and carrying out local programs to detect and treat incidents of lead-based paint poisoning.

(b) Limitation on amount of grant.

The amount of any such grant shall not exceed 75 per centum of the cost of developing and carrying out a local program, as approved by the Secretary, during a period of three years.

(c) Required provisions.

A local program should include—

(1) educational programs intended to communicate the health danger and prevalence of lead-based paint poisoning among children of inner city areas, to parents, educators, and local health officials;

(2) development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents, and to insure prompt medical treatment for such afflicted individuals;

(3) development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment; and

(4) any other actions which will reduce or eliminate lead-based paint poisoning.

(d) Employment opportunities for local residents.

Each local program shall afford opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint poisoning elimination programs. (Pub. L. 91-695, title I, § 101, Jan. 13, 1971, 84 Stat. 2078.)

SHORT TITLE

Section 1 of Pub. L. 91-695 provided: "That this Act [which enacted this chapter] may be cited as the 'Lead-Based Paint Poisoning Prevention Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4811 of this title.

SUBCHAPTER II.—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

§ 4811. Development of local programs; assistance of Secretary; required provisions; consistency of assisted programs; employment opportunities for local residents.

The Secretary of Health, Education, and Welfare is authorized to make grants to units of general local government in any State for the purpose of assisting such units in developing and carrying out programs that identify those areas that present a high risk to the health of residents because of the presence of lead-based paints on interior surfaces, and then to develop and carry out programs to eliminate the hazards of lead-based paint poisoning.

(a) A local program should include:

(1) development and carrying out of comprehensive testing programs to detect the presence of lead-based paints on surfaces of residential housing;

(2) the development and carrying out of a comprehensive program requiring the prompt elimination of lead-based paints from all interior surfaces, porches, and exterior surfaces to which children may be commonly exposed, of residential housing on which lead-based paints have been used as a surface covering, including those surfaces on which non-lead-based paints have been used to cover surfaces to which lead-based paints were previously applied; and

(3) any other actions which will reduce or eliminate lead-based paint poisoning.

(b) Each such program shall—

(1) be consistent with the appropriate local program assisted under section 4801 of this title, and

(2) afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

(Pub. L. 91–695, title II, § 201, Jan. 13, 1971, 84 Stat. 2078.)

SUBCHAPTER III.—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

§ 4821. Development of program; consultation; nature of program; report to Congress.

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead-based paint poisoning in the United States, particularly in urban areas, and the methods by which lead-based paint can most effectively be removed from interior surfaces, porches, and exterior surfaces to which children may be commonly exposed, of residential housing. Within one year after January 13, 1971, the Secretary shall submit to the Congress a full and complete report of his findings and recommendations as developed pursuant to such program, together with a statement of any legislation which should be enacted, and any changes in existing law which should be made, in order to carry out such recommendations. (Pub. L. 91–695, title III, § 301, Jan. 13, 1971, 84 Stat. 2079.)

SUBCHAPTER IV.—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

§ 4831. Use of lead-based paint in residential structures constructed or rehabilitated by Federal government or with Federal assistance.

The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated after January 13, 1971, by the Federal government, or with Federal assistance in any form. (Pub. L. 91–695, title IV, § 401, Jan. 13, 1971, 84 Stat. 2079.)

SUBCHAPTER V.—GENERAL PROVISIONS

§ 4841. Definitions.

As used in this chapter—

(1) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the term "units of general local government" means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any combination of units of general local government in one or more States, (C) an Indian tribe, or (D) with respect to lead-based paint poisoning elimination activities in their urban areas, the territories and possessions of the United States; and

(3) the term "lead-based paint" means any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied.

(Pub. L. 91–695, title V, § 501, Jan. 13, 1971, 84 Stat. 2080.)

§ 4842. Consultation by Secretary with other departments and agencies.

In carrying out the authority under this chapter, the Secretary of Health, Education, and Welfare shall cooperate with and seek the advice of the heads of any other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority. (Pub. L. 91–695, title V, § 502, Jan. 13, 1971, 84 Stat. 2080.)

§ 4843. Authorization of appropriations.

(a) There is hereby authorized to be appropriated to carry out the provisions of subchapter I of this chapter not to exceed $3,330,000 for the fiscal year 1971 and $6,660,000 for the fiscal year 1972.

(b) There is hereby authorized to be appropriated to carry out the provisions of subchapter II of this chapter not to exceed $5,000,000 for the fiscal year 1971 and $10,000,000 for the fiscal year 1972.

(c) There is hereby authorized to be appropriated to carry out the provisions of subchapter III of this chapter not to exceed $1,670,000 for the fiscal year 1971 and $3,340,000 for the fiscal year 1972.

(d) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972. (Pub. L. 91–695, title V, § 503, Jan. 13, 1971, 84 Stat. 2080.)

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